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HIGHER ED

alaska
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university

office of the president

Bill - Higher Education Committee

February 27, 1975

The Honorable Bob Bradley
Alaska State House of Representatives
Pouch "V" State Capitol Building
Juneau, Alaska 99811

Dear Representative Bradley:

It has come to my attention that some legislators may have inaccurate information relative to Alaska Methodist University. A number of factual errors have been published recently in certain news media and/or in the January 1975 Higher Education In Alaska 1974-1975 by McLean Associates. In order that you may have accurate information for your anticipated decision making, I respectfully submit the following statements.

AMU purchased, between 1955 and 1962, a total of 505 acres of land. The land was acquired under the Recreation and Public Purposes Act, 43 USC 869, and under the regulations implementing that Act, 43 CFR Part 254. The land was acquired in accordance with the Recreational and Public Purposes Act at a reduced price based upon the appraised value of the land at the time and was not given to the University as has been indicated in the sources cited above.

The enrollment at Alaska Methodist University has not been declining in recent years. The fall semester 1974 total enrollment was 1564 headcount; 817 full time equivalents, not counting students cross registered from the University of Alaska, Anchorage, and 875 full time equivalents including cross registered students. These enrollments are the highest in the entire 15 year history of AMU. This has occurred in spite of our problems and bad press over the past many years.

Contrary to the McLean Associates report, I was not forced to select administrators from the existing faculty because of financial necessity. Three years ago, when I came to AMU, I was faced with, among other things, the recruitment and establishment of a second level of administration for the institution. Such a second level was clearly needed to accomplish necessary tasks, provide supervision, and to build a base for institutional continuity. In my judgment, it was not advisable to go Outside to find experienced administrators

anchorage, alaska 99504 907/272-4401

who would then have to learn about Alaska when we had, on our staff, highly qualified Alaskans who could learn to be administrators. Furthermore, an analysis of the relative costs of the two approaches clearly indicated that the second one would result in an annual saving of several tens of thousands of dollars.

Furthermore, everyone of the administrators, including the president, teach classes in order that we may better keep in touch with the main clientele of the institution, the students. Thus, we have built a system whereby more resources are brought to bear in decision making, and those making the decisions have continuing first hand experience with the main purpose of the University.

I hope this information will be helpful. As soon as we have the necessary data and the actions by the University of Alaska Board of Regents and the AMU Board of Trustees we shall be in contact with you.

Thank you for your continuing concern for improved higher education in Alaska.

Sincerely,

John O. Picton
President

JOP:mb

MEMORANDUM

LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

POUCH Y — STATE CAPITOL
JUNEAU, ALASKA 99811

TO: Members, Legislative Interim Committee on Higher Education

DATE: 10 April 1975

FROM: Stuart C. Hall, Legislative Counsel

SUBJECT: Community College Advisory Councils

Attached for your reference, per the request at last evening's committee meeting, are copies of correspondence between this office and the University of Alaska relative to the origin and status of the community college advisory councils. Also attached is the currently applicable guidelines for the establishment and organization of the councils, adopted by the Board of Regents January 13, 1972, and amended in September 1973. The policy statement of the board also is included.

cc: Reps. Ostrosky, Roberts, Miller, Parr, Bradley
Sens. Hohman, Huber, Beckett

January 14, 1972

TO: Regional Directors
Community College Coordinators
Chairmen, Citizens' Advisory Committees

FROM: [redacted], Vice President for Public Service

At the meeting of the Board of Regents held in Milwaukee on January 10-13, President Weaver submitted for consideration a Proposed Policy Statement on Citizens' Advisory Committees to University of Public Service, a copy of which is attached. You will note that the proposed policy statement is relatively brief and did not attempt to set forth guidelines for the policy statement itself. However, we did develop a set of proposed general guidelines, based on previous input from previous community college directors, and advisory committee representatives with a view toward further refinement and ultimate inclusion in the University information manual.

The Board adopted the policy statement as proposed with the only change being the last sentence of the second paragraph on page two which was changed to read as follows:

> "The local superintendent or principals should be invited to attend as an ex-officio member of the committee."

Thus, the policy statement is now officially adopted.

The Board of Regents also reviewed the Proposed General Guidelines for Citizens' Advisory Committees and generally concurred with the guidelines as set forth. They suggested on page (i) that there be added reference to representation from alumni and military [illegible] groups, etc.

Please note that the proposed general guidelines are still open for further input [illegible] to finalize them at a meeting of community college directors which will be held in Madison on February 17 and 18. In our opinion one of the sticking points of the proposed guidelines is (i) which requires that each committee adopt a simple set of by-laws and that there be flexibility for each local committee to adapt to best meet local needs as they see them. Prior to the February 17-18 meeting of community college directors we suggest that each community college director carefully review the proposed general guidelines with their committees so that we may have input for the final draft.

As soon as the guidelines are finally drafted and approved by the President they will be officially issued and I suggest that I, [illegible] in each region will proceed to work with appropriate people to implement the policy and guidelines.

[illegible] BY AIRBAR

January 14, 1972

Proposed General Guidelines for Citizens' Advisory Committees
(To be inserted on page 15 of Information Manual)

Note: These guidelines are written in the present tense to be consistent with the rest of the Professional Personnel Information Manual.

Citizens' Advisory Committees

Citizens' Advisory Committees established by the President under authority granted by the Board of Regents are formed and function under the following general guidelines:

(a) Advisory Committees are designated by geographic location and usually serve for all University of Alaska administrative units within the area.

(For example: The Juneau-Douglas Citizens' Advisory Committee serves for the University of Alaska, Juneau, including the Juneau-Douglas Community College.)

Sub-committees may be designated by the Committee to serve specific purposes for specific administrative units.

(b) Committee membership usually is held to not more than fifteen, exclusive of ex-officio members. Members are appointed to staggered three year terms with June 30 as the term expiration date. (Committees already in existence at the time of adopting the guidelines determined membership terms according to their own devices.)

(c) The President seeks advice from the community concerned in originally establishing a committee and he requests nominations from the committee, as well as from the community, when naming replacements.

(d) Committee membership includes representation from the local school board, the borough and city government, organized labor and the professions, commerce and industry and minority groups.

(e) Board of Regent members and the President are always considered ex-officio members of a citizens advisory committee. The regional Provost is an ex-officio member of any committee within the region. In community college locations the Community College Director is an ex-officio member and shall serve as secretary for the committee.

PLEASE REPLY BY AIRMAIL

In areas served by an extension center the Extension Center Coordinator is an ex-officio member and serves as secretary. The local superintendent of schools is also an ex-officio member of the committee.

(f) Each committee adopts a simple set of by-laws for its own governance which includes:

(1) Regular meeting dates (at least quarterly) and the usual meeting place.

(2) Authority for calling special meetings.

(3) Provisions for preparing an agenda for regular and special meetings.

(4) Arrangements for keeping a record of discussions and actions, including a provision for routine transmittal of minutes to the appropriate provost, to the Vice President for Public Service, and the President.

(5) Delineation of specific functions within the broad framework noted in (g) below.

(6) Provision for selecting a chairman, vice chairman, and secretary at the beginning of each year (July 1).

(g) The function of the advisory committee is to advise University of Alaska representatives, the President, and the Board of Regents, through the President, on general and specific matters related to University of Alaska activities and programs in the particular area. The committee provides an important and invaluable communications link between the community and University representatives.

Within this broad framework a local citizens' advisory committee is usually involved in the planning of educational programs and necessary facilities for such programs, the development of total program budgets, the evaluation and assessment of programs, and the development of policy recommendations for the consideration of the President and the Regents.

The Provost in each region, on behalf of the President, is responsible for providing leadership and consultant service to advisory committees within the region. The Vice President for Public Service is responsible, on behalf of the Office of the President, for maintaining liaison with the Provosts with regard to advisory committees.

Proposed Policy Statement on Citizens' Advisory Committees
in Instruction and Public Service

In response to a recent inquiry from the Legislative Affairs Agency, the President noted that the first community college citizens' advisory group was specifically authorized for Anchorage by the Regents on [illegible], 1965 and was appointed in June of 1965. Subsequently the Regents have similarly directed formation of such groups for each community college and extension center location.

While an approximate membership number of fifteen was suggested originally, no other guidelines or structure have been developed for advisory groups. There has been considerable variance in the activities and effectiveness of the several groups. Recent discussions with advisory groups have led to the general conclusion that:

(1) there should be a broad policy statement of the Regents to provide a basis for citizens' advisory committees; and

(2) there should be developed a broad set of guidelines for the formation, utilization, and operation of such committees, recognizing, however, that exact uniformity and conformity for each and every committee is not necessary.

We propose, therefore, that the following brief statement of policy be adopted by the Regents and incorporated as Chapter [illegible] of the Policies of the Board of Regents:

"The President of the University may appoint advisory committees of citizens in instruction and public service areas on a temporary basis for specific purposes or on a continuing basis, for the purpose of orienting the public to the role and opportunities for participation in University and University related activities. He shall arrange that such a continuing committee be established for each community college and extension center location throughout the State.

In the case of temporary committees the President shall set forth in writing the purpose, scope, and depth of the committee's work before it is officially activated. For the continuing committees the President shall set forth general guidelines which shall include composition and rotation of terms of service, committee organization and functions, and the transmittal of committee advice and recommendations as appropriate.

It shall be made clear that the function of such committees is that of advising and recommending to the appropriate University

representation, the President through the President the Board of Regents. The Board and its President may not delegate legal authority to such committees.

Members of the Board of Regents are ex-officio members of such committees. The President is an ex-officio member of each advisory committee. The regional Provost is an ex-officio member of each committee within the region. The Community College Director is an ex-officio member and shall serve as secretary for the committee for a community college location. The local superintendent of schools is also an ex-officio member of the committee.

The President shall report to the Board periodically on the composition, duties, and the advice and recommendations of the committees."

Note: Dr. Dafoe has been working with the provosts and community college directors, with input from advisory group members, toward developing general guidelines for citizens' advisory committees. Hereattached is the latest draft but not yet ready for final submission. When a final draft is approved we anticipate that it will be published in the Board's Operational Information Manual on page 1.1 just preceding the section on "Channels of Communication" under a title like Citizens' Advisory Committees, and that copies be provided to each current and future advisory committee member.

I recommend adoption of the proposed policy statement as set forth by the President [illegible]

ADOPTED BY THE BOARD OF REGENTS SEPTEMBER 1972

Citizens Advisory Committees

Concurring with the recommendation of the Executive Officer of the Board and the Educational Policy and Program Committee, Regent Madsen moved, seconded by Regent Robertson, and passed unanimously that:

> "The Board approves the deletion of the first 2 sentences of paragraph 4 of the policy statement on Citizens Advisory Committees, adopted by the Regents on January 10, 1972, 'Members of the Board of Regents are ex-officio members of such committees. The President is an ex-officio member of each advisory committee.' The first sentence of section (c) of the policy guidelines should be deleted to be consistent with this policy change."

WILLIAM R. WOOD
PRESIDENT

UNIVERSITY OF ALASKA
COLLEGE, ALASKA

November 17, 1971

RECEIVED
NOV 19 1971
LEGISLATIVE AFFAIRS
AGENCY

Mr. Stuart C. Hall
Legislative Counsel
Legislative Affairs Agency
Pouch Y, State Capitol
Juneau, Alaska 99801

Dear Mr. Hall:

The first community college citizens' advisory group was authorized by the Board of Regents in their meeting of May 22, 1963, in the following motion:

"Regent O'Neill, seconded by Regent Conway, moved after due consideration that the President of the University be directed to invite outstanding citizens of the Anchorage community to serve on a Citizens' Advisory Group for the Anchorage Community College. The motion carried unanimously."

On June 1, 1963, I extended an invitation to approximately fifteen prominent citizens of Anchorage who would be able to provide information concerning both educational and manpower needs in the area. The attached list of persons was issued. As I recollect, all who received the invitation accepted. I attended the first meeting of the group and discussed in some detail the nature of the assignment and explored possible ways in which the Advisory Group could be most effective in bringing into being an adequate and first rate educational program tailor made for the Anchorage location. Deans Short of the Anchorage Community College or Provost Dafoe and Dr. Bright subsequent to their appointments have attended the meetings. Assistance in compiling the minutes and Advisory Group recommendations has been provided by the Office of the Provost or the Office of the Dean.

Based upon the model used by the Anchorage Community College Citizens' Advisory Group, the Regents have similarly directed that an Advisory Group be formed for each of the community colleges that is a part of the University of Alaska: Kenai, Ketchikan, Juneau, Matanuska-Susitna, Kodiak and Sitka, as well as for the proposed Tanana Valley Community College.

These Advisory Boards have operated in a very capable manner and have been exceedingly helpful to the University of Alaska in developing higher education programs in their respective communities.

Sincerely yours,

William R. Wood
President

WRW/kb
encl.

June 1, 1965

Personal

Mr. William Scott
Vice President
Anchorage Chamber of Commerce
Anchorage, Alaska

Dear Mr. Scott:

On behalf of the Board of Regents of the University of Alaska, I am privileged to invite you to serve as one of approximately fifty members of a Citizens Advisory Group for the Anchorage Community College, and other University of Alaska programs in the Greater Anchorage area.

The basic purpose of the Citizens Advisory Group would be to advise the President of the University, and through him the Board of Regents, on the types of instructional programs that the University of Alaska should provide in Anchorage and the means of gaining support to make such programs possible. In other words, the primary function would be both short range and long range planning of the overall public higher educational program and working to support its accomplishment for the benefit of Anchorage and the State.

As has been set forth in a series of articles appearing in the Anchorage News and elsewhere, there is a pressing need for the development of future public higher educational opportunities in Alaska, particularly in the Anchorage area. A copy of the section of articles, "Youth, College and Jobs in Alaska" is enclosed for your information. I do hope that you will find the time to read each of the full column sections, particularly the last one beginning on page 20 entitled "Quality Education for All at Lowest Possible Cost". I am sending along also a copy of our most recent catalogue, a section of the Daily News Miner Progress Edition dealing with the University, and an unpublished article from the Association of State Universities and Land-Grant Colleges, "Community Services of State Universities".

Mrs. Winona Smith -2- June 2, 1943

Board immediately provide information which will be helpful to the Committee of the Citizens Advisory Group.

I do hope that it will be possible for you to accept appointment to the Citizens Advisory Group. Your good counsel on the cultural welfare of this young giant of the Greater Washington area would be of very great service to your Universality and your Nationality.

Cordially, the first meeting is being arranged for Wednesday, July 8, with the exact time and place to be announced later.

Sincerely yours,

William M. West
President

W:MW/ls
cc:

Re Community Colleges
Act

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

November 12, 1971

Dr. William R. Wood, President
University of Alaska
College, Alaska 99701

Dear President Wood:

Would you, or a member of your staff, be kind enough to forward to this office a copy of the Regents standing order, rule or policy concerning the creation of, appointment to, powers and duties of the local advisory boards to the community colleges.

A member of the legislature has requested information, and we have no statutory material covering the formation and operation (AS 14.40).

We would appreciate your assistance in this regard.

Very truly yours,

Stuart C. Hill
Legislative Counsel

SCH:lm

ALASKA
STATE LEGISLATURE

MEMORANDUM

April 3, 1975

TO ALL MEMBERS OF THE INTERIM SUBCOMMITTEE ON HIGHER EDUCATION

Meeting will be held on Wednesday evening, April 9, at 7 pm in the House HESS committee room on the first floor of the Capital.

Dr. Sarafian will be present.

AGENDA:
(1) Resume of actions on HB 142, 143, 144.
(2) SB 239-240 Post-secondary Education in Rural Areas.
(3) AMU-U of A Settlement.
(4) U of A - Sheldon Jackson Consortium.
(5) 1202 Commission.
(6) Miscellaneous.

SHELDON JACKSON COLLEGE

P.O. BOX 479
SITKA, ALASKA 99835

April 2, 1975

Mrs. Sue Greene
Assistant to the Governor
Governor's Office
Juneau, Alaska 99801

Dear Sue,

Attached you will find a summary report which I presented to the Board of Trustees in late January. In the press of time, I haven't been able to get additional information drafted, but thought that this along with the other material which we gave you on our programs might be helpful.

I am also enclosing a summer school brochure and bulletin. Several of us had drafted some specific recommendations for the Governor, his staff, and various key legislators. The President will be sending this shortly and may be in Juneau to discuss those matters with you.

I am looking forward to having a few hours in Juneau to contact you on the morning of April 4th. I will be staying over night with the Rev. Ken Smith in Auke Bay if for some reason you wanted to contact me in the evening hour of the 3rd.

We appreciate your support and interest in our program. In the past, we probably haven't done the best job of keeping people informed as we have gone about our business. However, we realize that we will have to do a more effective job of keeping interested parties informed.

Sincerely,

Charles C. Bovee, Ed. D.
Vice President for Academic Affairs and Dean

CCB:mm

Enclosures:

cc: Dr. Helen Beirne
Representative Brenda Itta
Representative Jim Duncan
Representative Bob Bradley

MEMO TO: Dr. Merton D. Munn

FROM: Dr. Charles C. Bovee

DATE: January 24, 1975

RE: SUMMARY REPORTS FOR THE BOARD

The following report covers very briefly the status of the various areas listed in the agenda for the Executive Committee meeting of January 24 and 25. I will be glad to respond to any questions that the Committee might have. As you know, the Administrative Council has evaluated most of these programs several times this year to determine whether or not they are in line with the planning and projections for this academic year. In addition, most of the areas have been reviewed for program planning for next year, with various recommendations from the Administrative Council.

Home base

The on-campus educational program has remained fairly stable over the past few years with clearer lines of delineation of responsibility between Sheldon Jackson College and Sitka Community College. In the fall report to the Board, it was noted that the courses have been controlled to avoid undue proliferation. This spring we will be offering 56 courses, and we anticipate 130 full time students, and probably 60 part time students on campus. I believe we need to improve our on-campus instruction, and our Title III proposal has a section calling for a faculty workshop on improving instructional technique for Summer 1975. In addition, we need to strengthen those programs which are unique to Sheldon Jackson College, and especially to explore these in the light of a possible four year curriculum. The Administrative Council did have initial discussion on the prospects of a four year college program, beginning possibly in the area of education, to complete our present program with those receiving an A. A. degree in the villages. I believe we should also seriously consider the four year program in such fields as aquaculture, natural resources, anthropology, linguistics, native studies, and external education programs.

Teacher Aide

In 1973/74 the Teacher Aide Program was fully funded with $209,000. This year we were only able to support nine communities with the federal program, and had to develop a non-federal program with six communities, supported by state tuition grants and other sources of funding. This development has probably been helpful, as it forces us to use creative ways to pursue the program without dependence upon federal funds. Marlene Lund, the new director, has done an excellent job of organizing and administering this year's program. We have written several proposals for this coming year to aid in the continuation of the program, and developing an upper division program for the third and fourth year so that we might insure that people receiving their Associate of Art education can receive their Bachelor's degree. The Administrative Council evaluated

the Teacher Aide program, and felt that, with the combined federal and non-federal support, it was providing good educational service and, in fact, brought income to the college.

Foreign Study

The first semester of our foreign study program in Apain went well considering the newness of the program and staff. Student retention was unusually high. We lost several students in the last few weeks due to social problems, and they were asked to come home. The response of those returning from the Spain program were positive, with a number of students expressing an interest in returning to Spain this spring. We discouraged this because we felt that our spring program would be too similar to the fall program, and we could not give them sufficient programs to stimulate their interest and learning. The year program was budgeted on sixty students and we had 24 go in the fall semester, and are anticipating 33 at the present time for the spring semester. This program has proven to accomplish our intended goals which were educational as well as economical. The students experienced a high degree of cultural shock, which we hope to tap for a more serious consideration of the meaning of their own culture. Economically, it has been beneficial to attract students to Sheldon Jackson College. The Administrative Council has discussed this many times, and feel very strongly that our student body would not have increased this year had we not had the foreign study program. We had a mild crisis when two of our counselor/teachers resigned for second semester early in January. However, we have been able to replace them. Mary Sandoval, administrative assistant, married to a Spaniard in Madrid, is on campus to help prepare for next semester. Darrell and Jan Moore are going to Spain for the first three weeks to help get the second semester off to a good start. In discussing this program for 1975/76 we are proposing that a one-semester foreign program be initiated for the spring.

Bilingual Program

Vesta Dominicks, over the past two years, has done an excellent job in identifying needs for bilingual education throughout Southeast Alaska and fostering them, particularly in nine of the native villages. This program was partially funded under the Teacher Aide program last year, but received more support this year. She has visited the various villages to assess their needs and help them in identifying local teachers to stimulate the program in the villages. In addition, she has been involved in materials development. Last year she was responsible for developing the Tlingit/Haida workshop along with Elaine Ramos. The Administrative Council feels very strongly that our native studies program directed by Mr. Davis and the bilingual education program directed by Vesta Dominicks should receive continued attention and support, and that Sheldon Jackson College should be the hub of preparing teachers and materials to stimulate the language throughout Southeast.

Aquaculture

This program, funded under the Hill Family Foundation, has progressed well under the direction of Derek Poon and his staff. They have stimulated a great deal of interest and received input by having weekly seminars with various professional individuals throughout the State of Alaska participating. They have been able to video a number of these presentations for future reference. In addition, they have had a technical advisory committee which has guided the project, and they will be completing the building and the development of the plant along with recruiting students during the rest of this year to prepare for the initiation of the curriculum and plant operation in the fall 1975. This continues to be an exciting project, and they have sought out other funds and cooperative relationships with the Alaska Department of Fish and Game. We believe with our location, and the need for the renewable resource of fish, that this will undoubtedly become a major program for the school in the future. The Administrative Council heartily supports this program, and encourages further development of it. We have received encouragement in this project by many people in Juneau when we were there for the inauguration of the Governor, and had a chance to meet government administrators and legislators.

Flight Program

A year ago we decided to go with a one-man flight program this year, obtaining additional flight instructors on a part-time basis. The program has had more difficulty this year, both in organization and operation. This is primarily due to our flight director, who has not had as much experience as our previous director. The Administrative Council has discussed the pros and cons of continuing this program next year, and some of these factors are reflected in the budget and assumptions attached to the 1975/76 budget. Although this program has been popular and attractive, and undoubtedly has drawn some students to Sheldon Jackson College, it continues to escalate in cost and has limited funding resources other than Veterans Administration and private sources. Possibly, if we could get the right director for the program, who would not only develop it but recruit students for it we could continue the program. However, we need to look at this program very carefully as it relates to next year's planning.

Forestry

The forestry program has continued to have steady support with 6 to 10 students enrolled in the forestry program. Jim Wilson has done an excellent job in developing this program along with his work in the science department. He has been directing the National Science Foundation grant we received, which will enable us to improve our science facilities as well as improve some of the operations in the forestry field. Some of these funds will, in addition, be used to assist in plant development which can be used in the aquaculture program as well. Jim does not feel that this

is a program that we could realistically consider for a four year program, since there is a great deal of cost involved in the last two years. This particular program has not been discussed, perhaps because we assumed that it would continue because of the favorable response and effectiveness of the program.

Barrow

Over the past year Sheldon Jackson College, along with Antioch College, has been involved in developing a higher education degree program for the North Slope Borough at their request. In addition to the direct request of the Barrow mayor, the borough assembly, the North Slope Arctic Regional Corporation, and the Barrow school board, we have had encouragement from the University of Alaska administration to initiate and be involved in the project, and the project has been looked upon favorably by the Commissioner of Education and by a number of legislators and by the Governor's staff. Our involvement in the North Slope at this time probably is one of the best demonstrations of the role a private institution can play in responding to educational needs. There have been several major developments and road blocks during the last year, but the project is being implemented for the winter and spring quarter. In March 1974 initial discussion on educational needs assessment occured in Barrow with the conclusion that there was a need for higher education on the North Slope in certain areas of study, including education, business management, public administration, health and Inupiat culture. A further developmental stage occured in April with specific students being interviewed for needs assessment. During the summer months a degree program was developed, based on this analysis. Initially, the program was scheduled to begin in October, but was delayed due to legal questions raised by a possible violation of the state consitution and state law. The legal questions have been resolved, and the Borough assembly recently developed a tuition grant program for the Borough. along with the incorporation of an Inupiat council as a fully incorporated body to act as an administrative body to contract with Sheldon Jackson College and Antioch. The Administrative Council discussed the Barrow project at great length and unanimously recommended that we retain our involvement. We should anticipate some direct income over and above the consulting fees they have been paying for our services.

ARTTC, X-CED

The Alaska Rural Teacher Training Corp, presently known as the Cross Cultural Education Program, has been functioning in Southeast under a contract which we received from the Department of Education. Last year when we discussed this prospect we believed that our Teacher Aide program which covers the first two years of an education program, and the ARTTC program which presently covers the last two years of an education program could be coordinated in such a way as to avoid duplication in an economically efficient way. However, there have been many complex

problems related to this since there are five other centers receiving a great deal more money than we are to run their program, and the number of students that they can take out of our Teacher Aide program after receiving their Associate of Arts degree is very limited. Therefore, we need to evaluate not only this program to make sure that we are not over-expending due to pressures put on by the University of Alaska staff, but we need to evaluate the model for next year. Our present recommendation is to utilize our resources on a contractual basis, but have the major operation of the program operated out of the University of Alaska.

SHELDON JACKSON COLLEGE
Summer School '75

The following bulletin announces the course description and resume's of the professors for the 1975 Summer Sessions. The upper division and graduate courses will be granted through a cooperative arrangement with WHITWORTH COLLEGE (WC) in Spokane, Washington. The schedule identifies these courses. There will also be several courses each session sponsored by the University of Alaska.

SESSION I June 2 - 20

Soc Sc 351/551 The Nature of Culture This course will focus on a discussion of the development of culture in various societies both primitive and modern. It consists of bringing together the culture of the Northwest Coast Indians compared with the mediaeval societies of Europe, especially in the expression of their culture through their arts. 3 credits WC
DR. ERNA GUNTHER Professor Emeritus at the University of Washington and a noted authority on natives of the Northwest Coast, author of several books and numerous articles, she has spent many summers and much of her spare time at the Sheldon Jackson Museum organizing and cataloguing the artifacts.

Biol 364/564 Human Genetics A course designed for individuals in health professions and teachers of health and related science areas. The primary purpose is to familiarize students with the role of genetics in human health and disease. Mitosis, meiosis and simple Mendelian gene transmissions will be reviewed and differences between man and some other animals emphasized. 3 credits WC
DR. RICHARD LYONS Coordinator of WAMI (Washington, Alaska, Montana, Idaho) Medical Education Program and Professor of Medical Sciences University of Alaska; previously Chief, Biomedical Sciences Branch, Public Health Service, Arctic Health Research Center, Fairbanks, Alaska.

Hist 472/Grad* The Era of the American Revolution: History for the Bicentennial There will be four areas covered in this course; the colonial opposition to British policies, 1763-1776; the War for Independence, 1775-1783; the organization of a central government, 1776-1789; and how revolutionary was the revolution? A course designed to stimulate and prepare students for the coming of the Bicentennial. 3 credits WC
DR. RUSSELL SAGE NELSON, JR Professor of History, University of Wisconsin at Stephens Point who has a special interest in the American Frontier and the American Revolution. He recently co-edited with David R. Wrone, Who's the Savage? a documentary history of the mistreatment of the native North American.

Ed 414/Grad* Early Childhood Education This seminar in early childhood education will focus on topics ranging from furniture to philosophy. Concepts from major developmental theorists such as Jean Piaget will be introduced. Young children's learning experiences in the home, infant stimulation centers, day care programs and headstart will be explored. Students with experience in early childhood education will be encouraged to share their expertise with the seminar. 3 credits WC
DR. MARGARET STEWARD Assistant Professor of Psychology, School of Medicine, University of California at Davis with teaching experience at Emory University and actively involved in research with numerous articles published on early childhood education.

Soc 354/554 Family Relations This seminar will focus on family relations using the psychosocial theory of Erikson and communication theory of Watzlawik, Jackson, and Bateson. The developmental theory will allow the in-depth exploration of individual case studies. The systems theory will allow examination of the

* Although graduate numbers are not listed, these courses can be taken for graduate credit.

patterns of interaction in which individual family members participate within the larger family system. The format of the course will include a lecture, demonstration, interviewing, and a creative workshop. 3 credits WC
DR. DAVID S. STEWARD Associate Professor of Religious Education, Pacific School of Religion and Graduate Theological Union, Berkeley, California has engaged in research, written articles and held workshop in the areas of religious education, child development and family relations. Prior to coming to Berkeley he was Assistant Professor of Christian Education at Candler School of Theology, Emory University in Atlanta.

Educ 417/517 Teaching of Reading A course primarily aimed at elementary school teachers although the principles involved can be applied to other aspects of the teaching of reading. It consists of the development of reading programs with special attention to continuity of growth in reading skills through the various developmental levels. 3 credits WC
DR. MARIANNA BUNGER Professor of Education since 1968 at Alaska Methodist University has had a wide experience in elementary education with a special interest and experience in application of early childhood education and reading in Alaska communities having served as a consultant on various projects and development of curriculum.

Art 255 Art Workshop This is a workshop designed primarily for artists who have had some instruction and who wish to work and share with other artists under the direction and encouragement of an Artist in Residence. Times can be arranged. Encouragement from one another and suggestions and guidance by the instructor will assist further development of students. 1-2 credits SJC
CLAIRE FEJES A native of New York, she received her art training at the Newark Art Museum and at the Art Students League of New York and has taught in New York, Fairbanks Public Schools and the University of Alaska. She has had one man shows in the Frye Art Museum in Seattle and the Roko Gallery in New York and is the author of a book The People of the Noatak, illustrated by her.

Music 294 Music Appreciation This course uses the Summer Music Festival as a basis for music appreciation. The instructor discusses the music to be presented with some historical and technical aspects designed to increase the appreciation for the evening performances. Students are welcome to attend practices of the artists on campus as they prepare for the performances. 1 credit SCC
PAUL ROSENTHAL Lecturer in violin at the University of Alaska in Anchorage is the violinist, music director, and inspiration of the Sitka Summer Music Festival and has studied under Jascha Heifetz, and has been laureate in international competition in Brussels, Helsinki and Moscow.

SESSION II June 23 - July 11

Biol 339/539 Marine Biology of Sitka Sound A discussion of biological principles as illustrated by marine plants and animals. Natural history, ecology, distribution and identification of the common species of nearby coastal areas. Consideration of various marine environments and ecologic factors along with principles of conservation and resource development. Underwater observation will be possible for qualified divers who bring their own equipment. Diving is not a requirement for the course. 3 credits WC

DR. RICHARD NEVE' Director of the University of Alaska's Seward Marine Station and Coordinator of the Shore Programs and Professor of Marine Science of the University of Alaska with five years experience in Alaska from the Southeast to the Bering Sea with extended research in aquaculture.

Biol 343/543 Pollution Biology: Silver Bay Revisited The course will cover the evolution of Silver Bay after the locating of the pulp mill and consists of comparing pre-mill status in original pristine state and the state at the present time, and shall examine the matter in which base line environmental studies conducted prior to the establishment of the mill have been used or not used to establish environmental control. There will be a discussion of the significance and values of water quality criteria in terms of their effectiveness or lack of effectiveness to protect the biology of the bay. There will be lectures and workshop field approach. This will be a two week course from June 30 - July 11. 2 credit WC
DR. PAT WENNEKENS Supervisor of the Coastal Habitat Protection Programs for The Alaska Department of Fish and Game having received his B. S. in Fisheries and Ph. D. in Oceanography at the University of Washington with experience in applied oceanography and marine pollution.

Biol 353/553 Marine Embryology A study of the planktonic larvae and the development of eggs and embryos which can be obtained and collected from local intertidal organisms. There will be lectures and discussion on basic developmental processes and field trips to obtain the material necessary for the study. 3 credit WC
DR. ROBERT BACON Professor of Anatomy, University of Oregon Medical School who previous to present appointment was Associate Professor of Anatomy, Johns Hopkins University and who helped initiate the Marine Biology Society of Oregon.

Jour 321/521 Clear Writing for Easy Reading The how and why of concise writing that will catch reader attention and convey the message with clarity. Designed to be helpful in all types of writing. The course will include reasons for various types of reader reaction. 3 credits WC
PROF. KEN BYERLY Professor Emeritus in Journalism, University of North Carolina, author of Community Journalism, a college textbook and former member of the Wyoming Legislature and owner-publisher of the Lewistown News-Argus.

Ed 407/507 Health Teaching Approaches A course covering approaches to health teaching for elementary and high school teachers. The course will focus on philosophy concepts, behavioral objectives and community resources and processes. 3 credits WC
DR. FRANCES SIMMONS BYERLY Previously Associate Professor in the Department of Health Administration School of Public Health, University of North Carolina with experience in continuing education and research in health education and public health.

Soc 356/556 Parent Effectiveness Training This seminar after a brief look at historical patterns of family relations will focus on parenting issues of contemporary families. The role of multiple generation and extended family will be examined. The families function in the development of cognitive and emotional maturity for their children will be examined. We will also explore the issues faced by families attempting to maintain and transmit ethnic values in the midst of rapid social change. 3 credits WC
DR. MARGARET STEWARD & DR. DAVID STEWARD ... team teaching. The resume's of these professors can be found under the First Session descriptions.

Anth 230 Natives of Alaska A study of the aboriginal peoples of Alaska - - Aleuts, Athapascans, Eskimos, Tlingits - - - with their ways of life and their present prospects. 3 credits SJC
ESTHER BILLMAN Curator and Director of the Sheldon Jackson Museum and Instructor in Anthropology at Sheldon Jackson College.

General Information

Pre-registration is encouraged to assist in final plans and arrangements for books and classroom space. There is a $15 registration fee for any students not previously enrolled. Tuition will be $47 per credit for SJC courses (lower division) and $53 per credit for Whitworth College (WC) courses (upper division and graduate credit). Alaskan students are eligible for tuition grants for SJC courses which may include the courses listed at the upper division and graduate division. Room and board will be $72 per week. Since housing is limited, requests for housing early is encouraged and a $15 deposit is required. A modest scholarship of $10 will be awarded to any student registering prior to May 1.

Final registration is scheduled during the first day of classes in the Registrar's office. Students may drop by during their free time to complete registration. Classes will meet daily Monday through Friday. After the first day of class, specific hours will be arranged for class hours by the professor and students.

Travel arrangements by air or ferry should be made early. The College will have someone to meet the planes and ferries, but we would appreciate a postcard informing us of arrival dates. The temperature in Sitka in June is usually in the 60's and seldom higher than 74°. Although June can be clear, sunny and beautiful, it can also rain, so come prepared with overshoes and rain gear.

For additional information you may write:

Registrar,
Sheldon Jackson College
P O Box 479
Sitka, Alaska 99835

Minutes of SUBCOMMITTEE ON HIGHER EDUCATION

March 13,1975...7:15 p.m. House HESS Committeeroom

Present	Absent
Senators Hohman	Senators Sackett
Huber	
Representatives	
Beirne	
Miller	
Parr	
Bradley	
Ostrosky(Chairperson)	

Dr. Armen Sarafian Consultant
Mr. Stu Hall Legislative Affairs Agency

AMU PURCHASE

There was a question to the committee which Dr. Sarafian felt would be raised by the AMU Board. How would the one and three/quarters million, or three million initial down payment be transferred to cover the cash flow needs of AMU from mid-April to the end of the academic year.

Senator Huber noted that an Appropriation-Authorization Bill would have to be submitted and approved by the Legislature.

Senator Hohman noted that time was a crucial factor.

There could possibly be sharing between the U of A and AMU to meet the "human needs". Senator Huber raised the question of whether the U of A could transfer monies which had been appropriated to it.

Senator Huber made note of a February 3 meeting between the AMU Trustees and some Legislative Leaders, the meeting had been called by Governor Hammond.

I-50*

SALE OF AMU PROPERTIES

There was some discussion of the AMU Boards earlier propasal to

withhold central acreage from the property package. Dr. Sarafian noted that there Board had come far since that point and indicated that that may no longer be their position. He further noted that, after the sale, the U of A, rather than the state would deal with HUD.

Dr. Sarafian noted that there might be forgiveness for part of the bonds and cited examples in other areas of that happening but did not indicate that there could be total forgiveness of the bond.

I – 200

I – 475

Could some of the construction bonds for the proposed Student Center be applied to the purchase? There was some discussion and a Motion was made by Rep. Bradley, seconded by Rep. Beirne, to " Within the next several days pursue whether bond monies can be utilized to put part or full down payment on the AMU facility." MOTION PASSED

Dr. Sarafian and Stu Hall planned to check on the matter. Dr. Sarafian also planned to talk with Dr. Hiatt regarding

1. Bid schedule information
2. How the purchase would fit into the UAA building plans.

Use of the newly acquired buildings was discussed.

Dr. Sarafian noted that problems of transferring student credit hours and accepting AMU students into UofA programs were being worked out by professional committees from each of the universities.

I - 600

CONSORTIUM LIBRARY

Representative Beirne outlined the cutbacks in the Consortium Library program, these were noted in relation to the increased demand for use of the facility.

Since $250,000 appeared in the proposed bond, for books, Dr. Sarafian said that he would check to see if the cutbacks from the General Fund were made with the expectation that the Bond Issue would help make up the difference.

There was some discussion on the priorities of the Consortium in relation to the other Higher Education Programs and programs in other fields funded by the state.

Representative Beirne noted that, of the $600,000 cut out all but $57,000 was to have been for library materials. Even this investment she noted, would not have brought the library up to standard.

Senator Parr noted that along with the new materials additional staff would be needed to process the materials for use.

I - 850

Dr. Sarafian said that the library should be upgraded soon to keep the academic credentialling standards of the University up. He further mentioned that at an early date the committee ought to have a recommendation and a legislation proposal related to some kind of supplemental authorization.

Dr. Sarafian said that he would check into the specifics of the Consortium Library Cutbacks.

I-870 COMMUNITY COLLEGE BILLS

Stu Hall noted that HB 144 is a modified form of earlier proposed legislation.

There was some discussion of the proposed role of the Executive Vice President: to be in charge of rural campuses, to act as liason officer, to take over the extension offices.

There was further discussion on the difference between Extension Centers and Community Colleges and the relationship of these educational units to the larger State Higher Education System.

I-1100 There was a Motion by Senator Hohman to "Take advantage of Dr. Sarafians' experience for him to look at the Community College funding formula in relation to the 1976 requests." Rep. Beirne seconded. MOTION PASSED

Representative Miller raised the point of strengthen the role of the Local Advisory Boards. This was followed by a discussion of the roles of the Local Advisory Boards, The University Board of Regents, and the Subcommittee on Higher Education, and their interrelationship..

Dr. Sarafian talked on the possible impact on the State Higher Education System after the Alaska Methodist University Closes. He also mentioned the possibility of increased pressure for a split between the University system and the Community College system.

II-200 Representative Bradley presented a motion, seconded by Rep. Beirne, "To have a worksession with the Board of Regents to develop discussion on Higher Education in Alaska, College Advisory Boards, and other matters, bringing out resolutions, bills, and working papers." This worksession would be planned prior to the confirmation hearings in the Senate HESS Committee. MOTION PASSED

II-700 Representative Miller raised the point that the Juneau Community College is not meeting the two year college needs of the youth in the area and many young people are going outside the area to continue their education after High School.

Dr. Sarafian mentioned the possibility of the Alaska Higher Education System developing a program similar to the "University Without Walls", in other areas.

The meeting adjourned at 10:30 p.m.

* The meeting was tape recorded and the numbers in the margins note where on the tape each portion of the meeting appears.

Papers

HIGHER EDUCATION IN ALASKA A Report With Special Reference to Institutions in Anchorage September 1972 E.L. McLean and Assoc.

HIGHER EDUCATION IN ALASKA A Report Based upon Follow-up visits to Sitka, College, and Anchorage January 1973 E. Lee McLean and Assoc.

HIGHER EDUCATION IN ALASKA A Report With Special Reference to the Community Colleges. January 1974 Mc.ean Assoc.

HIGHER EDUCATION IN ALASKA A Study With Recommendations January 30, 1974 E. Lee McLean and Assoc.

HIGHER EDUCATION IN ALASKA 1974-1975 January 1975 McLean Assoc.

Letter to Rich Gutherie, Fiscal Analyst from Robert W. Hiatt President of the University of Alaska.

Chapter 14. Items 25-37 SESSION LAWS 1974 (read in meeting)

ROBERT W. HIATT
PRESIDENT

UNIVERSITY OF ALASKA
OFFICE OF THE PRESIDENT
FAIRBANKS, ALASKA 99701

April 1, 1975

Representative Bob Bradley
Pouch "V" State Capitol Building
Juneau, Alaska 99811

Re: Professional Salaries, University of Alaska

Dear Bob:

Each year a comparison of the University's salaries is made with comparable institutions in the "lower-48". During the 1974 Legislative Session these salary figures indicated that the average University of Alaska salary would have to be raised 20.9 percent to meet the Regents' goal for the University's salaries. This goal--to achieve the average of salaries paid to comparable institutions in the "lower-48" plus the Alaska cost-of-living differential--is both modest and realistic.

The salary schedule for state employees which included an area cost-of-living differential was funded by the Legislature in 1974 for all State employees except the University's professional staff. The University's classified staff are receiving the area cost-of-living differential. The Contract negotiated between the University and the Community College teachers (ACCFT Local 2404) contains a provision for an area cost-of-living differential, for which the funds for FY 75 are requested in SB 76. For the remaining non-union professional staff this area cost-of-living is herewith requested. The sum required for non-bargaining unit professional staff retroactive to 1 September 1974, (the date at which this area COLD is to begin for those covered by the Union Contract) is $1,607,984. This amount is inserted at point "I-G" in Attachment 1.

The Regents in May 1974 approved a ladder-type salary schedule for professional employees, the first ever at the University of Alaska. Correct placement on the schedule according to educational qualifications and experience will require $120,254. This will correct any discrepancies in placement resulting from prior salary placements for those whose salaries are now below their appropriate level. Those who have salaries higher than their correct placement will be retained at their current salary until the schedule catches up with them. We were thwarted in this necessary adjustment last year because the salary raises were ordered "across-the-board." We request this amount aside from any across-the-board increases to regularize our staff pay.

Detailed analyses presented in Attachment 2 indicate that our non-bargaining unit professional staff salaries presently rank below the 10th percentile among state universities (see Table VII). If the same salary raise figure were used for our non-bargaining unit professional staff as was finalized in the contract for the community college faculty (7.7% starting 1 September 1974) the salary level would fall within the 50th percentile. The cost for accomplishing this step would be $1,343,799 ("I-I" in Attachment 1).

May I draw your attention to the Community Colleges section of Table VII for Category III institutions (the same as our community colleges, but in the West Coast states where community college salaries are highest in the nation). You will note that prior to application of Contract raises, the community college faculty salaries rank in the 20th percentile. With the first of three separate salary adjustments decided by binding arbitration (7.7% effective 1 September 1974) the salaries would rank in the 60th percentile.

The Contract arbitration awarded the community college faculty two additional salary adjustments (10.7% on 1 January 1975 and 9.7% on 1 July 1975) which place these faculty in the 80th percentile of West Coast community college salaries.

Because the Regents have consistently employed a policy of equal treatment for all University of Alaska faculty, I herewith request the Governor and the Legislature to provide equal treatment across the board for our professional staff. Thus, to be consistent with the 1 January 1975 salary increase for community college faculty, the non-bargaining unit group would, in addition to the 4% cost-of-living escalation effective 16 February 1975, require 6.4% additional. This would require $708,043 ("I-J", Attachment 1). Please note that these two salary increases are retroactive.

To keep pace with the community college faculty on 1 July 1975, the non-bargaining unit professional staff would require a 9.7% increase which would total $2,292,668 ("II-D", in Attachment 1).

Item "II-F" in Attachment 1 summarizes the new funds needed in FY 76. The cost of extending FY 75 increases through FY 76 ($1,699,949) plus the 1 July 1975 salary raise ($2,292,668) add to $3,992,617 needed in the FY 76 budget.

Attachment 2 contains the detailed analyses of the University's professional salary status. Dr. Richard Solie, its author, is ready to work with staff budget analysts to confirm the figures.

I respectfully request, on behalf of the Board of Regents, careful consideration of these requests to place University professional staff salaries at an appropriate level, taking into consideration the unusual area cost-of-living differentials and the fact that we should like to treat all the professional staff equally according to qualifications and merit.

Sincerely yours,

Robert W. Hiatt
President

PLEASE REPLY BY AIRMAIL

Anchorage Higher Education **Consortium Library**

3211 Providence Drive • Anchorage, Alaska 99504
Phone 272-5522
Serving Alaska Methodist University and University of Alaska, Anchorage

March 11, 1975

File - Mail special
for Interim Committee
file for Higher Education - Jim
a member
dl.

Miss Elizabeth Carroll
Assistant Director for AMU
Consortium Library
3211 Providence Drive
Anchorage, Alaska 99504

Dear Elizabeth:

I have read the copy of the memorandum which you sent to Dean Ross Schaff, giving your reply to statements attributed to me in the McLean Report. I saw the McLean Report for the first time a few days ago. There are some statements recorded there which I did not make; some other statements of mine were extrapolated and reported accordingly.

I did not say that AMU had made no contribution to the book budget of the Consortium Library. I reported that about $25,000 had been allocated for materials. I further reported that after the end of the fiscal year, you told me that the bills for much or most of the materials which you had ordered had not been paid from the FY 1974 book budget. You said that the bills had been carried over and the funds meant for library use had been used to pay other obligations, therefore you were uncertain as to what AMU's contribution had actually been for the 1974 fiscal year. The foregoing was precisely what I told the committee.

With regard to the $7,000 or $8,000 which I said had been spent from UAA funds in filling book orders requested by AMU personnel; I told the committee that AMU's contribution had orginally been budgeted by the library to be spent on microfilm, and that other requests made by AMU faculty had been routinely purchased out of the state-appropriated funds for the Consortium Library. After $7,000 or $8,000 had been spent filling AMU requests, I was informed by Dean Schaff that AMU did not feel that microfilm was a suitable investment for AMU to make. At this point responsibility for deciding what should be purchased with AMU funds was turned over to you.

You raised a number of other points which I should like to answer, but to do so would require so many words that it would probably add to rather than clear up any confusion which may exist.

Please reply Air Mail

Provost Haines to whom I report in the University of Alaska was present at the meeting. I am confident that he will confirm that I said nothing derogatory about Alaska Methodist University.

Yours truly,

Jack O'Bar

Jack O'Bar
Director

JB:bh

cc: Interim Committee on Higher Education
Provost Lewis Haines
President John Picton
Dean Ross Schaff
Vice-President Richard Gay

Higher Ed - Sub comm.

ROBERT W. HIATT
PRESIDENT

UNIVERSITY OF ALASKA
OFFICE OF THE PRESIDENT
FAIRBANKS, ALASKA 99701

March 4, 1975

File - Education Committee file -

Mr. Rich Guthrie
Fiscal Analyst
Legislative Budget and Audit Committee
Pouch WF
Juneau, Alaska

Dear Rich:

On 28 February Don Dafoe replied to an inquiry by you relating to AMU physical assets.

The AMU Trustees' Committee made a proposal to the Board of Regents and the Board replied after sitting as a full Board. These documents are enclosed. This is the latest in negotiating events. I am also enclosing for your use and distribution as you see fit a synopsis of the AMU land purchases from BLM. As you can see, a total of $102,000 was paid for 505 acres. The State paid them $2,000,000 for 186 of those acres in 1972.

As to Bob Bradley's questions:

1. There is a federal involvement (HUD) in the financing of AMU facilities. The indenture, arrears interest payments and penalties are listed in their proposal. We are checking with HUD to verify their accuracy and to learn whether HUD would be willing to shift these debts to the University of Alaska. How about forgive. Carry discount if HUD later sells, because AMU going under?

2. There is an amendment applicable to all parcels of AMU lands which requires their dedication in perpetuity for educational, recreational or health uses. This was placed on record when the State made the $2,000,000 land purchase in 1972.

3. Independent appraisals of the AMU properties have been completed. We are not privy to AMU's appraisal, but ours is appended. We are now requesting an appraisal on "deferred maintenance" and on furniture and fixtures.

I should note that the land appraisals have been made on the basis of commercial values, for this is about the only basis available to appraisers. Naturally, lands dedicated for restricted uses, such as these, will be actually valued at a far lesser amount.

I probably will be in Juneau next week and would be pleased to meet with Bob Bradley and others on this or other matters. Please give him copies of the materials enclosed.

Best personal regards,

Sincerely,

Bob

Robert W. Hiatt
President

RWH:dm
Enclosures

ORIGINAL VALUES & AMOUNT PAID FOR ANU LANDS

(INFO FROM BLM ANK. FILES)

What's this wrong ??

PATENT NO.	ACREAGE	APPRAISED	DISC. ALLOWED	PAID	$/ACRE
1150278* November 28, 1958	242.5	$ 36,375.00	68%	$11,640.00	$ 48.00
(1188433) same date		$ 150.00 acre			
50-64-0186+ June 2, 1964	227.5	$204,750.00 $ 900.00 acre	70%	$61,425.00	$ 270.00
50-64-0187+ June 2, 1964	35	$ 58,975.00 $ 1,685.00 acre	50%	$29,500.00	$ 842.85
Total appraised	505 A	$302,105.00		$ 598.21/acre	
Total paid	505 A	$102,565.00	66%	$ 203.10/acre	

Note

Note

REFERENCE: ANU Real Estate Mgt produced by Tryrk, Nyman & Hays on file in University of Alaska Planning files.

These are patents to the land and therefore title is held by ANU and they can sell or lease as long as they do not violate the restrictive clauses. The '58 patent has a re-issue (PAT.1188433), but the original was not cancelled, so there are two patents for the same land.

* Reverter clause expires at end of 25 years from issue.
+ Reverter clause runs in perpetuity.

Why not pay the commercial value less this Amt.?

March 3, 1975

TO: Alaska Methodist University Trustees' Committee

FROM: University of Alaska Board of Regents

RE: Responses to AMU Trustees' Draft Memorandum of Agreement Concerning the Sale of the AMU Campus, Buildings, Furniture and Fixtures

The Board of Regents met on Friday, 28 February to review and respond to the draft Memorandum of Agreement (MOA) concerning the sale of the AMU campus, buildings and certain personal property at Anchorage submitted by the Reverend Ac C. Wischmeier to Mr. Robert McFarland, President of the Board of Regents of the University of Alaska.

The Board concurred on certain important basic approaches with respect to this transaction which provided direction for specific responses to points made in the draft MOA. These are herewith noted and form a preamble to the specific responses detailed later.

The transactions between Alaska Methodist University and the University of Alaska being entered into now differ fundamentally from those resulting in the purchase of AMU lands in 1972. The 1972 land purchase was the most convenient vehicle available to the State of Alaska for providing major substantive financial aid to AMU for the express purpose of maintaining AMU as a viable institution so that it might continue to provide Alaskans seeking post-high school education a choice between public and private educational delivery systems. Because of this objective, the land involved was priced and acquired at near or at its "fair market value" without patent restrictions.

The current transaction is not involved with the maintenance of AMU as an institutional alternative to public higher education in Alaska, but rather one which will enable AMU to close its operations, pay its incurred debts and ostensibly establish an organization with any remaining funds, the nature of which is yet unknown but which will in some manner benefit higher education in Alaska. The resulting organization, presumably will be eleemosynary.

The AMU campus lands are dedicated in perpetuity for educational, recreational or health purposes. They were given to AMU without fee for educational purposes. Thus, although the appraisers had no choice but to value the lands on the basis of current commercial transactions in the vicinity and to assume that there was no restriction on the title, the Regents feel that a token payment should be negotiated for said lands.

PLEASE REPLY BY AIRMAIL

The Regents wish to make clear to the AMU Trustees that the amount and schedule of payments are the prerogative of the Legislature and the Governor. To effect this transaction in the most expeditious and timely manner the Regents and the Trustees should present to these State governmental bodies an agreed program fully and jointly supported. The President of the Board of Regents, Mr. McFarland, invites your Trustees' Committee to meet with the Regents' Committee at the earliest date possible following receipt of this response to the draft MOA.

Herewith are the specific responses to the numbered points set forth in the draft MOA.

1. The Regents are willing to negotiate an excepted parcel of land for AMU use, but not necessarily the parcels specified in the draft MOA. An explanation of uses to be made of the property and choices of location can be presented for resolution at the joint negotiating Committee meeting.

2. Acceptable.

3. The Regents are agreeable to negotiating a total sum for the campus and buildings based upon (1) a fair appraisal of the buildings which has taken into consideration their deferred maintenance; (2) a fair appraisal of furniture, fixtures and other personal property; and (3) a sum which is based upon a token payment for land dedicated to educational use.

3a. Acceptable, depending upon legislative appropriation.

3b. Acceptable dependent upon the Regents' negotiations with HUD concerning the now delinquent sums. Should the Regents be unable to negotiate any or all of these delinquent sums with HUD, such sums would have to be deducted from the specified down payment of $3,000,000.

3c. Acceptable, but subject to legislative approval.

4. Acceptable in principle. The Regents' appraiser has not considered these items, but will do so when a schedule of said items is prepared.

5. Schedule of payments will depend upon legislative approval. Because an eleemosynary organization is contemplated with the sale's net proceeds, the Regents believe a prime rate of interest improper, and will agree instead to a rate of 5 per cent subject to legislative approval.

6. Acceptable.

7. Acceptable providing the Alaskana library is not part of the Consortium Library collection already purchased and owned by the University of Alaska.

8. Retention of office space specified in Grant Hall is not acceptable. Should furniture, fixtures and office equipment presently located in such offices not be involved in the sale, the schedule of appraisals should clearly omit it.

The Regents would consider the rental of space to the AMU successor organization in locations and under conditions agreeable to the Administration of the University of Alaska.

9. This proviso is not acceptable for inclusion in this MOA. The joint Administrations are now planning for the transfer of selected personnel, programs and other important aspects, such as student records, from AMU to the University of Alaska. This matter will be included in that transaction.

10. Acceptable.

11. With the deletion of the last two sentences referring to "arbitration," this point is acceptable.

11a. (Board of Regents' statement re litigation) AMU will hold UA harmless for any litigation or liability arising in relation to the operation of AMU or arising prior to the transfer of possession of the premises to UA.

12. Acceptable.

Robert W. Hiatt
Executive Officer of the Board of Regents

RWH:dn

PLEASE REPLY BY AIRMAIL

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement is made the ____ day of March, 1975, by and between the University of Alaska (hereinafter UA) and Alaska Methodist University (hereinafter AMU).

W I T N E S S E T H:

WHEREAS, AMU is willing to sell its campus and buildings and certain personal property at Anchorage, Alaska; and

WHEREAS, UA is desirous of purchasing said campus, buildings and personal property;

NOW, THEREFORE, the parties agree as follows:

1. AMU agrees to convey to UA in fee simple absolute its entire campus at Anchorage, Alaska, with the exception of the following described parcels:

Parcel No. 1

The West half (W 1/2) of the North half (N 1/2) of the Northeast quarter (NE 1/4) of the Southeast quarter (SE 1/4) of Section 28 (S28), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 2

The West half (W 1/2) of the Northeast quarter (NE 1/4) of the Northeast quarter (NE 1/4) of the Southeast quarter (SE 1/4) of Section 28 (S28), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 3

The South half (S 1/2) of the Southwest quarter (SW 1/4) of the Southeast quarter (SE 1/4) of the Northeast quarter (NE 1/4) of Section 28 (S28), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 4

The Southwest quarter (SW 1/4) of the Southeast quarter (SE 1/4) of the Southeast quarter (SE 1/4) of the Northeast quarter (NE 1/4) of Section 28 (S28), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 5

All that portion south of University Drive of the North half (N 1/2) of the Southwest quarter (SW 1/4) of the Southeast quarter (SE 1/4) of the Northeast quarter (NE 1/4) of Section 28 (S28), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

The land which is agreed to be conveyed hereby, excluding the above-described parcels, contains approximately 265 acres and is more fully described as follows:

Parcel No. 1

The East quarter (E 1/4) of the Northeast quarter (NE 1/4) of the Northeast quarter (NE 1/4) of the Southeast quarter (SE 1/4) of Section 28 (S28), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 2

The East half (E 1/2) of the East half (E 1/2) of the Southeast quarter (SE 1/4) of the Northeast quarter (NE 1/4) of Section 28 (S28), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 3

The North half (N 1/2) of the South half (S 1/2) of the Northeast quarter (NE 1/4) of the Southeast quarter (SE 1/4) of Section 28 (S28), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 4

The South half (S 1/2) of the South half (S 1/2) of the Northeast quarter (NE 1/4) of the Southeast quarter (SE 1/4) of Section 28 (S28), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 5

The South half (S 1/2) of the South half (S 1/2) of the Northwest quarter (NW 1/4) of the Southwest quarter (SW 1/4) of Section 27 (S27), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 6

The North half (N 1/2) of the South half (S 1/2) of the Northwest quarter (NW 1/4) of the Southwest quarter (SW 1/4) of Section 27 (S27), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 7

The North half (N 1/2) of the Northwest quarter (NW 1/4) of the Southwest quarter (SW 1/4) of Section 27 (S27), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 8

The Northwest quarter (NW 1/4) of the Northeast quarter (NE 1/4) of the Southwest quarter (SW 1/4) of Section 27 (S27), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 9

The North half (N 1/2) of the Southwest quarter (SW 1/4) of the Northeast quarter (NE 1/4) of the Southwest quarter (SW 1/4) of Section 27 (S27), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 10

The South half (S 1/2) of the Southwest quarter (SW 1/4) of the Northeast quarter (NE 1/4) of the Southwest quarter (SW 1/4) of Section 27 (S27), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 11

The East half (E 1/2) of the Northeast quarter (NE 1/4) of the Southwest quarter (SW 1/4) of Section 27 (S27), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 12

The South half (S 1/2) of the Northwest quarter (NW 1/4) of Section 27 (S27), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 13

The Northwest quarter (NW 1/4) of the Northwest quarter (NW 1/4) of Section 27 (S27), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 14

The South half (S 1/2) of the Northeast quarter (NE 1/4) of the Northwest quarter (NW 1/4) of Section 27 (S27), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 15

The Northwest quarter (NW 1/4) of the Northeast quarter (NE 1/4) of the Northwest quarter (NW 1/4) of Section 27 (S27), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 16

All that portion south of University Drive of the North half (N 1/2) of the Southwest quarter (SW 1/4) of the Southeast quarter (SE 1/4) of the Northeast quarter (NE 1/4) of Section 28 (S28), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 17

All that portion south of University Drive of the Northwest quarter (NW 1/4) of the Southeast quarter (SE 1/4) of the Southeast quarter (SE 1/4) of the Northeast quarter (NE 1/4) of Section 28 (S28), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

2. AMU agrees to transfer to UA all improvements on said real property. The buildings include the following:

a. Gould Hall

b. Grant Hall

c. Campus Center Buildings

d. Behavioral Science Building

e. Faculty housing (9 units)

f. Maintenance and storage buildings

3. UA agrees to pay the sum of $20,000,000.00 for the above-listed real property and improvements. The terms of said payment shall be as follows:

a. The sum of $3,000,000.00 as a down payment. Said down payment shall be reduced by the sum of the obligations for salary at current AMU rates assumed by UA as a result of the termination by AMU of its faculty contracts due to the closure of AMU and the employment by UA of some or all of the AMU faculty. The exact sum of said obligation shall be determined prior to May 1, 1975, by the joint UA-AMU administrative task force subject to the approval of the Presidents of the two Universities and shall be limited to the salary obligations at current AMU rates for faculty actually employed by UA for the 1975-1976 school year.

b. UA shall assume AMU's rights and obligations under that certain Indenture dated October 1, 1972, between AMU and the First National Bank of Anchorage, as Trustee, and under that certain Indenture dated April 1, 1966, between AMU and the First National Bank of Anchorage, as Trustee. The said Indentures have a principal balance of $2,721,000.00, of which principal balance the sum of $100,000.00 is presently in arrears. The additional sum of $250,000.00 is presently due and owing under said Indentures, which sum includes $95,000.00 interest in accordance with the payment schedules under said Indentures, $140,000.00 deficiency in the sinking fund provided for in said Indentures, and the sum of $15,000.00 in miscellaneous interest and penalties under said Indentures. UA agrees to assume all of said principal, interest and penalty obligations and bring all arrearages current. It is understood by the parties that the concurrence of the Trustee and the bond holder under said Indentures will be required prior to the assumption by UA of AMU's obligations under said Indentures. The parties agree to jointly approach said Trustee and bond holder to secure their approval to the assumption. The purchase price set out hereinabove shall be reduced by the amount of the assumed indebtedness under said Indentures.

What a push on he pistol!

c. The first installment of the down payment shall be due on or before April 1, 1975 and shall be the sum of $1,000,000.00. The balance of said down payment shall be due on July 1, 1975.

4. AMU shall, in addition, sell to UA furniture, fixtures and other personal property for the additional sum of $800,000.00. Schedules of said furniture, fixtures and other

personal property shall be prepared and affixed to this agreement as exhibits. The parties understand that certain personal property may be subject to restrictions in the applicable deed of gift and AMU may therefore be required to retain said property.

5. The balance due of the purchase price shall be paid in equal annual installments commencing on the 1st day of July, 1976, and continuing annually thereafter on the 1st day of July until the total purchase price, together with interest at the rate of 8.5% per annum on the unpaid balance, is paid in full.

6. The unpaid balance due under the terms of this agreement shall be evidenced by a promissory note which shall be secured by an appropriate deed of trust on the real property and improvements transferred hereby and by an appropriate security agreement covering the personal property transferred hereby. The deed of trust and security agreement shall be superior to all other security interests in said real and personal property with the exception only of the Indentures described in paragraph 3(b) hereinabove. The deed of trust and security agreement shall provide for a minimum of six months within which any default under said deed of trust and security agreement may be cured by UA.

7. AMU shall retain its art collection and its Alaskana library.

8. AMU shall retain office space in Grant Hall. The office space retained shall be the southwest corner of Grant Hall from the present front counter to the west side of Grant Hall and from the south side of Grant Hall to the boiler room, (executive and business suite) together with three offices on the east side of the main hall on the first floor of Grant Hall, which offices presently contain the University Development Offices, Grants office and the institutional research office. AMU shall lease

all of said offices from UA for an annual rental of $1.00 per year. AMU shall retain title to the furniture, fixtures and office equipment presently located in said offices.

9. UA agrees to hire the present AMU registrar on a permanent basis to maintain the AMU student records. Mrs. Brooks.

10. The parties through the negotiating committees, the Board of Regents and Board of Trustees respectively, and through the parties' legal counsel shall cooperate fully in securing approval of the sale by the Legislature of the State of Alaska and by the United States Department of the Interior. Both parties agree to use their best efforts to promptly secure the approval of both of said agencies.

11. The details regarding the implementation of the transfer of the property and improvements of AMU to UA shall be negotiated by the joint AMU/UA administrative task force subject to the approval of the Presidents of the two institutions. Any dispute which cannot be finally resolved between those groups shall be submitted to the sale negotiating committees appointed by the Regents and Trustees of the two universities. Any dispute which cannot be resolved through negotiations between that committee shall be submitted for arbitration by the parties under the rules of the American Arbitration Association. The results of said arbitration shall be binding upon the parties.

12. It is understood and agreed by the parties hereto that this agreement is a preliminary agreement intended to express the general understanding of the parties with regard to the terms of the sale and that this agreement may require amendment, modification or substitution at a later date.

DATED the day, month and year first written hereinabove.

UNIVERSITY OF ALASKA

By: _____

Its _____

ALASKA METHODIST UNIVERSITY

By: _____

Its _____

DIRKSEN APPRAISAL COMPANY

PAUL P. DIRKSEN, S.R.A.-R.M. *531 West Third Avenue, Anchorage, Alaska 99501* *(907) 277-8675*

December 31, 1974

RECEIVED
OFFICE OF PLANNING &
INSTITUTIONAL STUDIES

DIST. JAN 3 1975 LOG # 2

DCM | RHH | [illegible]

Dr. Donald C. Moyer
Director of Planning
University f Alaska
Fairbanks, Alaska 99701

Re: Appraisal of Alaska Methodist University

Dear Dr. Moyer:

As requested, I have made an inspection and preliminary analysis of the value of land and buildings owned by Alaska Methodist University. The land is described as follows:

The NW¼ Section 27 EXCEPT The NE¼ NE¼ NW¼ Section 27;
The N½ SW¼ Section 27;
The NE¼ SE¼ Section 28;
The SE¼ NE¼ Section 27 lying South of University Drive;
The E½ E½ SE¼ NE¼ Section 27 lying North of University Drive;
The SW¼ SE¼ SE¼ NE¼ North of University Drive.

The gross area is approximately 292.69 acres.

Alaska Methodist University proposes to sell this property to the University of Alaska. The purpose of this preliminary estimate is to ascertain a fair price to be paid for the real estate. While the final appraised value may vary somewhat from this preliminary estimate, it should not be significantly different.

In my opinion, the Market Value of the Alaska Methodist University real estate as of December 27, 1974 is:

NINETEEN MILLION, TWO HUNDRED THOUSAND

($19,200,000)

See p. 6 for restriction on release of this info. to public media!

Allocation:

	Improvements	Present Value
(1)	Underground Utilities	$ 277,186
(2)	Parking	69,027
(3)	Student Union	5,663,886
(4)	Grant Hall	3,654,509
(5)	Gould Hall	1,409,600
(6)	Behavioral Sciences	31,159
(7)	Shop Garage	52,029
(8)	Ski Jump	67,900
(9)	Carillon	72,750
(10)	Tennis Courts	28,384
(11)	Hockey Rink	24,302
(12)	Landscaping	158,586
(13)	Faculty Residences (including land)	652,500
	Total Improvements	$12,161,818
	Land	7,000,000
	TOTAL VALUE ALASKA METHODIST UNIVERSITY REAL ESTATE	$19,161,818
	(rounded)	$19,200,000

Methodology:

The subject is a special purpose property. The standard method of appraising special purpose properties is to value the improvements based on cost new less depreciation then add the land. Depreciation must include all forms including

physical deterioration, functional obsolescence and economic obsolescence when these elements are present.

The land is zoned PLI, Public Lands and Institutions District, by the Greater Anchorage Area Borough. This district is intended to include major open lands, major public and quasi public institutional uses. The standard method in appraising land in this type of zoning is to substitute the highest and best use of the land as if it were in the private sector. This is because parks and institutional lands very seldom transfer on a Market Value basis. The highest and best alternate use for this land would be for a PUD, which includes condominiums, apartments, a small amount of offices and commercial and possibly some single family residences. The subject land has been valued on this basis.

There is a restrictive covenant in the patent from the Bureau of Land Management to Alaska Methodist University which restricts the use of this land to school purposes. The sale agreement between Alaska Methodist University and the University of Alaska for 197 acres of adjacent land in 1972 also contained a restriction on the remaining Alaska Methodist University land to school purposes. The land value in this preliminary estimate has not been penalized because of the restrictions placed on the land. Prior to completion of the final appraisal, I would like to have an opportunity to discuss the impact of these restrictions with counsel.

The land has been appraised with the streets in place. That is to say, land is more valuable with street frontage than land without street access. Therefore, although the streets are privately owned and maintained, the value of those streets is included in the land value. Near the South end of the property is a 25 acre lake which was created by mining of the gravel resources previously located thereon. Assuming that Chester Creek, which flows nearby, could be diverted in and out of the lake to fill it and freshen it, the lake is an asset to the land. The 25 acre lake area has been deducted from the total land area for purposes of calculation of land value. However, the 58.4 acres surrounding the lake have been valued at a higher unit value than the rest of the land.

The faculty residences have been valued on a comparative basis rather than cost less depreciation. This method includes the land on which a residence is located. Typical lot size for residences of this size is 16,000 square feet each, which would result in 3.31 acres being utilized for faculty housing.

This land value is included with the value of the faculty housing and was, therefore, deducted from the land area which was valued on an acreage basis.

Land Values:

58.4	Acres @ $35,000/Acre	=	$2,044,000
192.18	Acres @ $25,000/Acre	=	4,804,500
13.8	Acres @ $15,000/Acre	=	207,000
264.38	Acres TOTAL		$7,055,500
25	Acre Lake		
3.31	Acres with Faculty Housing		
		(rounded)	$7,000,000

As requested, the above presentation has been abbreviated with the supporting evidence retained in the appraiser's files. The final appraisal, when requested, will contain the back-up evidence for land value, cost of reproduction estimates and the comparable sales utilized in valuing the faculty housing.

The land areas utilized are approximate. No survey was made, and there is no warranty as to land area.

We acknowledge assistance of Terry Gorsuch, Cost Estimator, and Fred Ferrara, Appraiser, in this report.

We wish to thank you for this opportunity to be of service.

Sincerely,
DIRKSEN APPRAISAL COMPANY

Paul P. Dirksen

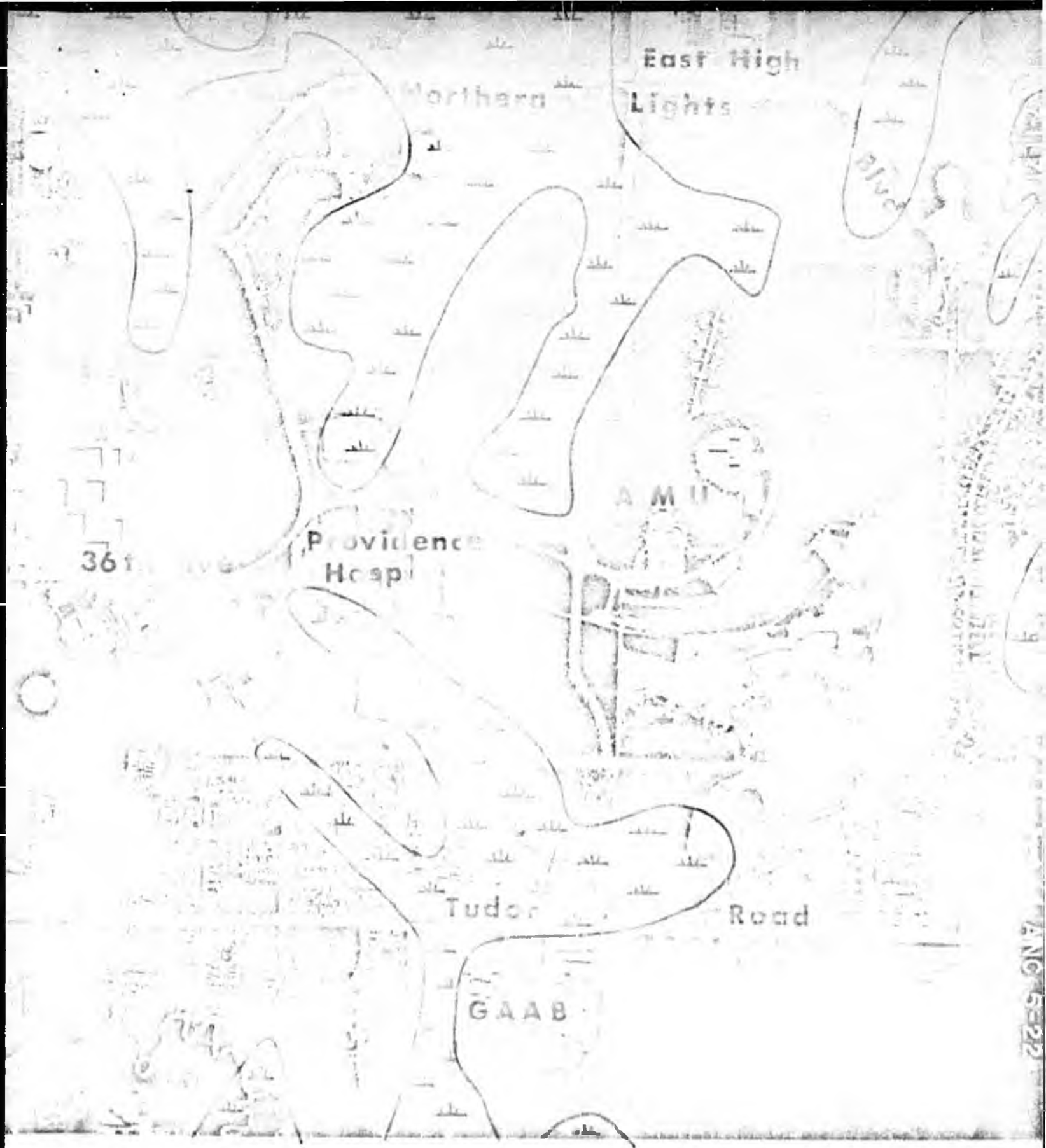
Paul P. Dirksen

PPD/sm

Attachments (5)

Is this guy
New Dep. Comm. for Public Works -
Artist who spoke to Committee
refer to P.
Dr. Moyer

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.


East High
Lights
Northern
Providence
Hospl
361
A M U
Tudor
Road
GAAB

Swamp

THE PRECEDING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

ASSUMPTIONS AND LIMITING CONDITIONS

1. No legal questions are considered in this analysis, such as titles, encumbrances, etc.. The property is considered as if free and clear.

2. All dimensions and legal descriptions are assumed to be correct, as furnished.

3. All information, as found in data furnished, is deemed to be reliable. If any errors are found, the right is reserved to modify the conclusions reached.

4. No study has been made to determine whether structures may have an infestation, such as termites or dry rot. In the absence of such study, it is assumed the property is free of such problems.

5. While various "approaches to value" and various mathematical calculations have been used in estimating value, these are but aids to the formulation of the opinion of value expressed by the appraiser in this report. In these calculations, certain arithmetical figures are rounded off to the nearest significant amount.

6. The data and conclusions embodied in this appraisal are a part of the whole valuation. No part of this appraisal is to be used out of context; and, by itself alone, no part of this appraisal is necessarily correct, as being only part of the evidence upon which final judgment as to value is based.

7. Employment to make this appraisal does not require testimony in court, unless mutually satisfactory arrangements are made in advance.

8. This appraisal is made in accordance with the standards of the American Institute of Real Estate Appraisers.

9. Fair Market Value is defined as "the price it (the real estate) will bring between a willing buyer and a willing seller, with equity to both.

10. This report is delivered subject to the stipulation that neither all nor any part of the contents shall be conveyed to the public media through advertising, public relations, news, sales or any other media without the written consent and approval of the author, particularly as to valuation conclusions, the identity of the appraiser, his firm, or any reference to the American Institute of Real Estate Appraisers.

CERTIFICATION:

The undersigned does hereby certify that, except as otherwise noted in this appraisal report:

1. I have no present or contemplated future interest in the real estate that is the subject of this appraisal report.

2. I have no personal interest or bias with respect to the subject matter of this appraisal report or the parties involved.

3. To the best of my knowledge and belief the statements of fact contained in this appraisal report, upon which the analyses, opinions and conclusions expressed herein are based, are true and correct.

4. This appraisal report sets forth all of the limiting conditions affecting the analyses, opinions and conclusions contained in this report.

5. This appraisal report has been made in conformity with and is subject to the requirements of the Code of Professional Ethics and Standards of Professional Conduct of the American Institute of Real Estate Appraisers of the National Association of Real Estate Boards.

6. No one other than the undersigned prepared the analyses, conclusions and opinions concerning real estate that are set forth in this appraisal report.

RESTRICTION UPON DISCLOSURE & USE:

Disclosure of the contents of this appraisal report is governed by the By-Laws and Regulations of the American Institute of Real Estate Appraisers of the National Association of Real Estate Boards.

Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser or the firm with which he is connected, or any reference to the American Institute of Real Estate Appraisers or to the M.A.I. or R.M. designation) shall be disseminated to the public through advertising media, public relations media, news media, sales media or any other public means of communication without the prior written consent and approval of the undersigned.

Paul P. Dirksen

Paul P. Dirksen, S.R.A. - R.M.

DIRKSEN APPRAISAL COMPA

PAUL P. DIRKSEN, S.R.A.-R.M. *531 West Third Avenue, Anchorage, Alaska 99501* *(907) 277-8675*

QUALIFICATIONS OF PAUL P. DIRKSEN, S.R.A., R.M.

PROFESSIONAL AFFILIATIONS:

Society of Real Estate Appraisers, Designation - S.R.A.
President, Anchorage Chapter #158, 1974-75
American Institute of Real Estate Appraisers, Designation - R.M.
American Right of Way Association
Anchorage Board of Realtors

EDUCATION:

Miami University, B.S., 1957, Oxford, Ohio
AIREA Appraisal Course I, Milwaukee, Wis., 1958
AIREA Appraisal Course II, University of Pacific, 1963
AIREA Appraisal Course IV, University of San Francisco, 1964
University of California, 1962 - 1964

BUSINESS EXPERIENCE:

Dirksen Appraisal Company, Anchorage
Alaska Department of Highways,
State Supervising Appraiser
Alaska Attorney General's Office,
Special Consultant on cases related to eminent domain
Savings & Loan Commissioner's Office,
Appraiser Class IV (California)
Lloyd Thomas Company, Chicago, Ill.
American Appraisal Company, Milwaukee, Wis.

COURT EXPERIENCE:

Qualified as Expert Witness in various Superior Courts

TYPICAL CLIENTELE:

Alaska Department of Highways
Alaska State Housing Authority
Greater Anchorage Area Borough
Alaska Department of Public Works,
Division of Aviation and Division of Buildings
University of Alaska
City of Anchorage
City of Fairbanks
City of Juneau
U.S. Coast Guard
Washington Highway Commission
San Francisco Bay Area Rapid Transit District
Various Urban Renewal Agencies
Private property owners and attorneys

UNIVERSITY OF ALASKA
FAIRBANKS, ALASKA 99701

April 18, 1975

Fels

The Honorable Susan Sullivan
Alaska State House of Representatives
Pouch "V" State Capitol Building
Juneau, Alaska 99811

Dear Representative Sullivan:

After sending you my memo of April 15, commenting on House Bill 404 I have discussed the bill with the University's ~~Legal~~ Counsel.

Our Counsel pointed out that a two year residency requirement as stated in the bill would raise serious questions of equal protection of the law under the U. S. Constitution. He also suggested that even though the proposed language is generally in line with existing Board of Regents' policy, mandatory language might be incompatible with the Board of Regents' constitutional responsibility to govern the University (Alaska Constitution, Article VII, Section 3). He suggested that the purpose of the proposed Sec. 14.40.055 might be better accomplished by the following language: "Notwithstanding the provisions of Sec. 14.40.050 the Board of Regents may provide for waiver of fees or charges to persons over the age of 60." The language would authorize waiver of fees, yet would not invade the Regents' constitutional responsibility for governance.

Sincerely yours,

Don M. Dafoe
Executive Vice President

cc: Rick Urion
Bob Bradley

The Legislature of the State of Alaska
FISCAL NOTE

First Session - Ninth Legislature

I. REQUEST

Bill No. House Bill 404

Title: An Act Relating to the University of Alaska

Requested by: Health, Education & Social Services Date: 4-17-75

Return Date Requested: Immediately

Agency: University of Alaska Program: Education

II. FISCAL DETAIL

Budget Request Unit(s) Affected: University - Statewide

A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 75	FY 76	FY 77	FY 78	FY 79	FY 80
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	No additional cost,		but a loss	of income		

B. FUNDING: (Thousands of dollars)

GENERAL FUND	36.0	45.0	54.0	63.0	72.0	81.0
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY						
MAN MONTHS (P./T.)						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

200 students x 3 credit hours each x $20.00 per credit hour = $12,000 per semester
(12,000 x 3 = 36,000)
This represents a loss of income that must be covered by an allocation of General Funds.
Projected increase at rate of 150 credit hours per semester (3) per year (9,000)

IV. ATTACHMENTS

V. DATE: 4-18-75 PREPARED BY: M. M. Hullinger

M. M. Hullinger
Vice President for Finance and Comptroller

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

UNIVERSITY OF ALASKA

COLLEGE, ALASKA 99701

TO: Hon Susan Sullivan Re HB 404 DATE: 4/15/74

Attached is a copy of an excerpt from Regents minutes adopting a policy for Tuition and fee waiver for persons 60 yrs and older. HB 404 is more restrictive than the Board policy, since it provides for two year residency but does not provide for payment of amounts for specialized classroom supplies. Also the term "educationally related" is very broad and might be interpreted to

REPLY: apply to exemption from payments for ~~private~~ individual music lessons, etc.

We believe the language in the bill should be modified as noted on the bill copy.

cc Rick Uhrom, Bob Bradley

File HB 404.

Introduced: 4/9/75
Referred: Health, Education & Social Services and Finance

IN THE HOUSE BY URION AND BRADLEY

HOUSE BILL NO. 404

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the University of Alaska; and providing for an effective date."

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

* Section 1. AS 14.40.050 is amended to read:

Sec. 14.40.050. DISCRIMINATION BECAUSE OF AGE, SEX, COLOR OR NATIONALITY PROHIBITED. No person shall be deprived of the privileges of the university because of age, sex, color or nationality.

* Sec. 2. AS 14.40 is amended by adding a new section to read:

Sec. 14.40.055. SENIOR CITIZEN EXEMPTION FROM TUITION AND FEES. Persons ~~who have been residents of the state for two years,~~ who are Alaska residents, who are 60 years of age or older, and who apply for enrollment or who are enrolled in the university are exempt from ~~tuition or~~ course fees imposed by the university ~~for educational or educationally related services~~. This exemption does not apply to charges for specialized classroom supplies, or for individual lessons or services, room and board or ~~other~~ student activities ~~unrelated to educational or educationally related services~~.

* Sec. 3. This Act takes effect July 1, 1975.

Bd of Regents Meeting Feb 28, 1975

...ial/ Not for Distribution

EIGHTH: Be It Further Resolved That all prior resolutions relating to any of the above matters be and they hereby are revoked.

NINTH: Be It Further Resolved That the President and Secretary of this Corporation be and they hereby are authorized to certify to said First Western Bank a copy of these resolutions and the names of this Corporation's officers and/or agents thereby authorized to act in the premises.

WE FURTHER CERTIFY that the following are those duly elected to the offices set opposite their respective names:

Hugh B. Fate	Treasurer, Board of Regents
M. M. Hullinger	Vice President for Finance & Comptroller
Lewis E. Haines	Provost, Southcentral Region
F. Stanley Vaughn	Business Manager

IN WITNESS WHEREOF, we have signed this instrument and caused the corporate seal of said Corporation to be hereunto affixed this _____ day of February, 197...

President

(SEAL)

ATTEST:

Secretary

Tuition and Fee Waiver for Persons 60 Years and Older

Regent Wendte moved, seconded by Regent Abel, and passed unanimously to approve the following motion the Finance and Business Management Committee had requested the Executive Officer of the Board to re-write and present to the full Board for action.

> "The Board approves a waiver of course fees (excluding fees for specialized classroom supplies), effective Fall Semester 1975, for Alaskan residents 60 years of age or older. The students may enroll in any class offered by the University of Alaska for which they are properly qualified, except those classes where student work spaces may not be available."

PLEASE REPLY TO ANCHA...

COPY COMMITTEES AND STAFF ON MY DESK

Subcommittee on H&E — BONDS

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K — STATE CAPITOL
JUNEAU 99801

March 18, 1975

Honorable Bill Ray
Chairman
Senate Finance Committee
Alaska State Legislature
Juneau, Alaska

Dear Senator Ray:

In your letter of March 11, 1975 you asked whether or not some of the funds from the University of Alaska bond issue authorized by ch. 144, SLA 1974 could be used instead for the purchase of Alaska Methodist University properties. In our opinion funds could not be reprogramed to uses other than those authorized by ch. 144, SLA 1974 and subsequently ratified by the voters.

This question was analyzed at substantial length in the attached opinion of April 26, 1974, transmitted to Mr. Joseph Henri, former Commissioner of Administration. Upon reviewing it, we feel that it remains the authoritative statement of our position on this issue. If you have any questions, please feel free to contact me.

Sincerely,

AVRUM M. GROSS
ATTORNEY GENERAL

By: Mark Ertischek
Mark Ertischek
Assistant Attorney General

April 26, 1974

The Honorable Joseph R. Henri
Commissioner
Department of Administration
Pouch C
Juneau, Alaska 99801

Re: Ch. 221 SLA 1970 — project changes after voter approval of bond authorization

Dear Commissioner Henri:

You have inquired whether the Department of Highways may use the proceeds of general obligation bonds, authorized by ch. 221 SLA 1970 (highway maintenance facilities) and approved by the voters at the 1970 general election, for projects other than those specified in ch. 221 SLA 1970. The answer is no.

You have mentioned that some of the maintenance facilities listed in that Act "are no longer required and some may be constructed for less funds than originally specified." Neither circumstance justifies using the bond funds on projects not listed in the Act.

CONSTITUTIONAL AND STATUTORY PROVISIONS

Article IX, Section 8 of the Alaska Constitution provides in relevant part:

"No state debt shall be contracted unless authorized by law for capital improvements and ratified by a majority of the qualified voters of the State who vote on the question."

AS 15.15.030(11) requires:

"When the legislature by law authorizes a state debt for capital improvements, the lieutenant governor shall place the question of whether the specific authorization shall be ratified by placing the ballot title and question on the next general election ballot,

> or on the special election ballot if a special election is held for the purpose of ratifying the state debt for capital improvements before the time of the next general election. . . ." (Emphasis added.)

Sec. 1, ch. 221 SLA 1970 authorizes the issuance and sale of bonds "for the purpose of paying part or all of the cost of acquiring, constructing and equipping and making other capital improvements to highway maintenance facilities." Sec. 2 of the same Act states:

> "The amounts of these bonds to be issued from time to time and the time or times of their issuance shall be fixed by the State Bond Committee (created by AS 37.15.110), and the specific uses of the proceeds of these bonds shall be determined by the governor in accordance with the following schedule: [here follows a list of 12 specific projects, including the respective fiscal years (from 1971 to 1973) for their undertaking]."

Sec. 6, ch. 221 SLA 1970 requires submission of the question to the qualified voters of the state and sec. 7 requires using "substantially" the following wording:

> "Shall the State of Alaska issue its general obligation bonds in the principal sum of not to exceed $5,500,000 for the purpose of paying part or all of the cost of acquiring, constructing and equipping highway maintenance facilities?"

By telephone conversation with this writer on April 15, 1974, Dorothy MacKenzie, Director of Elections, affirmed that Proposition No. 8, submitted to the voters at the general election on November 3, 1970, contained a verbatim statement of the heading and question set out in sec. 7, ch. 221 SLA 1970.

DISCUSSION

The Alaska Constitutional prohibition against incurring indebtedness refers to obligations against the general credit of the state. 1/ This being so, the voters of the state must be given the opportunity to voice their opinions, as required by Article IX, Section 8 of the Alaska Constitution, AS 15.15.030(11), and provisions comparable to sec. 7, ch. 221 SLA 1970 in each bond authorization Act. Many court decisions have held that, once the voters have ratified a bond authorization Act, a contract between the government and the electorate arises.

1/ Noted in the 1959 Opinions of the Alaska Attorney General, No. 39, and 1969 Opinions of the Alaska Attorney General, No. 5.

One such case is Tocker v. San Francisco Bay Area Rapid Transit District, 22 Cal. App. 3d 643, 99 Cal. Rptr. 361 (1972). In that case, the Act which created the transit district required a feasibility study to be made before putting the bond issue to a vote of the people. The study was made and the bond issue was approved by the voters. Nine years later the transit district entered into a contract with the City and County of San Francisco, providing for a particular modification of the plan as originally contemplated in the feasibility study. The validity of that contract was challenged. The California Court of Appeal, First District, held that because neither the legislative Act, nor the district's bond resolution, nor the ballot proposition specified the details of the rapid transit system, the modifying contract with San Francisco was within the district's authority and was therefore valid. But the court said (99 Cal. Rptr., at 364):

> "It is undoubtedly true, as contended, that the BART resolution stating the purposes of and calling the bond election, and the acceptance of the ballot proposition by the voters, was analogous to a contract between BART and the voters or at least the taxpayers of the district. (Los Angeles County Flood Control Dist. v. Wright, 213 Cal. 335, 348—349, 2 P.2d 168; O'Farrell v. County of Sonoma, 189 Cal. 343, 348, 208 P. 117; Peery v. City of Los Angeles, 187 Cal. 753, 767, 203 P. 992; Skinner v. City of Santa Rosa, 107 Cal. 464, 476, 40 P. 742.) The laws which authorized the bond issue were a part of that contract. (Sutter Basin Corp. v. Brown, 40 Cal. 2d 235, 241, 253 P. 2d 649; State School Bldg. Fin. Com. v. Betts, 216 Cal. App. 2d 685, 619 31 Cal. Rptr. 258; Jenkins v. Williams, 14 Cal. App. 89, 98, 111 P. 116.) And obviously, the terms of the specific proposal submitted to voters have the attributes of such a contract and must be respected. (See Skinner v. City of Santa Rosa, supra, 107 Cal. 464, 40 P. 742.)"

The court simply held that extraneous matter, such as feasibility studies, did not give rise to a contract. In our present situation, the Act itself -- ch. 221 SLA 1970 -- expressly listed the projects for which the bonds were to be issued. Thus, under the reasoning of the California court, a contract arose with the voters of Alaska.

The same California court reached a similar result a year earlier in East Bay Municipal Utility District v. Sindelar, 16 Cal. App. 3d 913, 94 Cal. Rptr. 431 (1971). In that case, the primary project contemplated before the election was held was completed with $84,000,000 in authorized but unissued bonds left over. The court held that issuance of the remaining bonds to expand facilities would be valid because the only specific restriction was contained in a feasibility study and in promotional material distributed before the bond election; it was not contained

in the laws creating the district, nor in the district's ordinance calling the election, nor on the ballot. The court states (94 Cal. Rptr., at 435):

> "The Municipal Utility District Act limited expenditure of the proceeds of the district's bonds authorized in 1958 to 'the objects or purposes for which the bonds were voted.' (Pub. Util. Code, sec. 13262.) The statutory restriction reflects the general rule which restricts expenditure of the proceeds of publicly-approved bonds (O'Farrel v. County of Sonoma [1922] 189 Cal. 343, 348—349, 208 P. 117; Mills v. S. F. Bay Area Rapid Transit Dist. [1968] 261 Cal. App. 2d 666, 668, 68 Cal. Rptr. 317) and which rests upon theories that such restriction is contractual in nature, or that it derives from a status which is analogous to a contractual relationship, or that it is implicit in a requirement of popular approval for a given bond issue."

Again, it is not only the ballot language which the court said creates the contractual relationship with the voters, it is the language of the authorizing legislation as well. But the court held that feasibility studies and promotional material do not. In our case, we are concerned with legislation, not a feasibility study or promotional material. This line of reasoning extends at least as far back as the 1910 case of Jenkins v. Williams, 14 Cal. App. 89, 111 P. 116, which is squarely in point with our present situation.

In the Jenkins case, the relevant statute required the county board of supervisors to "by order specify the purpose for which the indebtedness is to be incurred . . . ." The statute also required an election, with the ballot containing "a general statement of the amount and purpose of the bonds to be issued." In response to that statute, the board issued its order, specifying construction of seven roads and thirty bridges and stating the amount of money to be allocated to each road and bridge. The "general statement" on the ballot mentioned roads and bridges, without itemizing specific ones, and just set out the total number of dollars for roads and the total for bridges. (A courthouse construction project was also involved.)

One of the bridges was completed with a surplus of $503.16 of the amount allocated for that bridge remaining. The plaintiffs performed work on another bridge and sought to have that $503.16 applied to their contract price. Because of the specificity of the order of the board of supervisors (analogous to our ch. 221 SLA 1970), the court held that the funds could not be shifted. The court stated (111 P., at 118):

> "The position taken by the plaintiffs at the trial and here is that the face of the ballot expressed the will of the voters, regardless of the

> notice given to them by the order and proclamation of the board; that the $225,000 was to constitute the bridge fund, and all of it could be lawfully used for the construction of one bridge if necessary; that the ballot sufficiently complied with the statute in making a 'general statement of the amount and purpose of the bonds to be issued.' If this position be correct, it would follow that the board might not only expend all the bridge bond money on a single bridge, but it might also expend all the road and highway money upon a single road, and this, too, in direct conflict with the order of the board and the proclamation and notice given to the electors. We cannot agree to this construction of the statute."

Noting that "the brief statement of the purpose upon the ballot identifies the proposition more fully set forth in the order of which the electors are fully advised by publication of the order", the court went on to say (id.):

> "Here was $600,000 which the voters were told was to be expended in constructing 7 different roads in the county and $225,000 to be expended in constructing 30 different bridges, and we are asked to hold that these large amounts, ordered by the board for specific purposes, could be divided up and shifted about at the discretion or possible caprice of the board and for purposes in direct violation of its order and the statute. The order of the board was jurisdictional, without which the election and the bonds would have had no validity. The published order of the board formed an essential part of the propositions submitted to the vote of the electors, and it was the order which was ratified by them."

In our present situation, it was ch. 221 SLA 1970 which was ratified by the voters. Ch. 221 SLA 1970, in its section 2, itemized specific projects while allowing administrative discretion only as to the amount (and design, of course) to be used for each.

Further supporting this contract rationale is O'Farrell v. Sonoma County, 189 Cal. 343, 208 P. 117 (1922). In that case,

the order of the county board of supervisors specified the description, distance, and pro rata amount of money for each of several roads. The California Supreme Court held that, although the board's order legally could have been more general, the board chose to be specific and therefore was bound by the terms of its order (again, analogous to our ch. 221 SLA 1970) to apply the bond money as specified there. The order constituted a contract between the state and the electors which could not be modified by only one of the parties to that contract. (Also see Metropolitan Water District of So. Calif. v. Marquardt, 379 P.2d 28, 39 [1963].)

A similar rule on the use of public money obtains in other states. For example, see Bank of Lowell v. Cox, 279 P. 257 (Arizona, 1929); Independent Highway District No. 2 of Ada County v. Ada County, et al., 134 P. 542 (Idaho, 1913). The Arizona Supreme Court stated (279 P. at 262): "To hold that the money specifically authorized for one bridge might be used on another would be contrary to all principles governing the expenditure of public money."

Persons responsible for handling other persons' money - whether as a public official administering a program using public funds or as an individual trustee designated in a will - are vested with a certain amount of administrative discretion, but must nevertheless fulfill the purposes of the program and the trust and comply with restrictions in the creating instrument. In holding that, once the voters had ratified a specific bond resolution, the state legislature could not authorize the board of county commissioners to spend surplus bond funds on a road not included in the resolution's list of roads, the Florida Supreme Court stated, in Oven v. Ausley, 143 So. 588, 589 (1932): ". . . it is a violation of an elemental principle in the administration of public funds for those who are charged with the trust of their proper expenditure not to apply such funds to the purposes for which they are raised. *** When an enforced contribution is exacted from the people by the power of taxation, it is for a specific public purpose, and the fund so raised is a trust fund in the hands of the legal custodians of it."

Whether one applies a contract rationale, a trust rationale, or simply the express terms of the statute (ch. 221 SLA 1970), shifting bond funds from authorized uses to unauthorized ones is not permissible. As discussed above, under the contract rationale a contract arises not only from the wording of the ballot question, but from the authorizing Act too. Thus, the specific projects listed in sec. 2, ch. 221 SLA 1970 are binding as well as the general statement included in the ballot question. Under the trust rationale, the voters of the state

have, in effect, placed funds for certain purposes in the hands of their public officials, with ch. 221 SLA 1970 - including its sec. 2 - being the trust instrument.

And, under the express terms of the Act, there is little room for variation - neither from the general statement of purpose nor from the listing of specific projects. Since Article II, Section 1 of the Alaska Constitution vests the legislative power of the state in our legislature, and since no procedural or substantive impediment to its validity appears, ch. 221 SLA 1970 is as binding as are other valid laws. Those who administer our laws must act within the law.

Moreover, the wording of ch. 221 SLA 1970 is not vague or ambiguous. Nor does it appear to have resulted from legislative error or oversight. The history of the bill (Sixth Legislature's Senate Bill No. 435) which became ch. 221 SLA 1970 indicates the legislative intent. The bill was introduced at the request of the governor, who expressed a need for maintenance facilities to keep pace with the expanding highway system and to provide additional support facilities to insure adequate storage and repair of maintenance equipment (1970 Senate Journal, p. 149). That original bill provided for a bond issue of only $1,900,000 and listed no specific locations. The Senate State Affairs Committee offered a substitute bill calling for $11,100,000 and listing eighteen locations for the 1971 -- 1973 fiscal period (1970 Senate Journal, p. 556, incorporating two memoranda of the commissioner of highways). That substitute was rejected and the original bill passed the Senate. In the house, the Finance Committee offered a substitute calling for $5,500,000 and listing only twelve locations. It was this version which finally passed both houses and became the enabling Act under discussion here. The three successive versions of the Act evidence a deliberate, intentional limitation as to where the money could be spent.

Further evidencing the deliberation preceding the writing of sec. 2, ch. 221 SLA 1970 is the fact that, of the eleven bond authorization Acts enacted in 1970, the corresponding provision of six of them contained some degree of specificity with regard to projects; the other five just contained a general statement of gubernatorial discretion. Extending the idea of limiting the executive branch's discretion, is AS 24.30.037 (enacted by ch. 70 SLA 1973), which requires each bond bill to contain "a statement of the scope of each major project included in the proposed bond issue."

In discussing generally the power of a state to issue bonds, and citing Almond v. Gilmer, 188 Va. 22, 51 S.E.2d 272, 81 C.J.S., States sec. 179, declares that "State boards and officers may obligate themselves and the state only in pursuance

to the terms and in conformity with the provisions of the authorizing statute." It follows that use of the money produced by issuance of those bonds must also comply with the authorizing statute. Again, in discussing issuance of bonds, and citing In re State Treasury Note Indebtedness, 135 Okl. 10, 90 P.2d 19, 81 C.J.S., States sec. 183 continues "Specific provisions in the authorizing act control over any more general provisions." Thus the specific provisions of sec. 2, ch. 221 SLA 1970 control over the general purpose statements in secs. 1 and 7 of that Act.

CONCLUSION

The proceeds of bonds issued under ch. 221 SLA 1970 must not be used for "highway maintenance facilities" in general but just for the specific facilities listed in that Act. This does not mean that the money should be wasted by making the needed facilities more luxurious or by building facilities which are not needed.

You did not mention whether all of the bonds authorized have been sold -- $5,500,000. If some of the bonds have not yet been issued, and no more money is needed for the facilities which are determined to be necessary, simply do not issue those bonds. If there is a question as to what to do with existing surplus money - whether or not all of the authorized bonds have been issued - it should be taken from the "1970 Highway Maintenance Facilities Construction Fund", created under sec. 4, ch. 221 SLA 1970, and put in the "1970 Highway Maintenance Facilities General Obligation Bond Redemption Fund", created under sec. 5, ch. 221 SLA 1970. As Bond Counsel C. Richard Walker advised in his January 19, 1973 letter to Commissioner Stevenson concerning ch. 189 SLA 1970 and sec. 3 of pending HB 47, "If the State government determines that [this money] should not be expended for the purpose for which the voters authorized [it] to be expended (and the purpose for which the bondholders loaned the money in question), it is natural and logical that the State should achieve, as nearly as possible, the same result as if the bonds had never been issued. This can be accomplished by transferring the unexpended proceeds to the fund dedicated to the payment of the bonds. That is the result commonly provided for by statutes dealing with situations of this kind."

The California Supreme Court concluded its decision in the Jenkins case, supra, with the observation:

> "It seems to us that the views herein expressed are consistent with the letter and spirit of the statute, and that the construction contended for by [those who would seek to shift the funds] would open

the door to possible, if not probable, dangerous abuse of power, and would take from the vote of the people all its significance as well as defeat its purpose."

Very truly yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:
Arthur H. Peterson
Assistant Attorney General

AHP:fw

cc: The Honorable Bruce Campbell
Commissioner
Department of Highways

Minutes of SUBCOMMITTEE ON HIGHER EDUCATION

February 19, 1975...8 a.m. House HESS Committeeroom

Present	Absent
Senators George Hohman John Huber	Senators John Sackett
Representatives Helen Beirne Mike Miller Kathryn Ostrosky (Chairperson) Charles Parr	Representatives Bob Bradley

Guest

Stuart Hall, Legislative Affairs Agency

The meeting was called to order with the following agenda:

1. Contract with McLean & Associates.

   A motion was made by Sen. John Huber and seconded by Sen. George Hohman, to recommend to the Legislative Council that the contract with McLean & Associates for February 1975 to January 31,1976 be accepted.

   The committee urged that the contract include appearances for consultation every 6 weeks or the equivalent of that frequency.

2. Appointments to Post-Secondary Education Commission.

   It was agreed to urge speedy action on naming of appointees by Legislative Council, Budget & Audit, and Governors selection before the March 1 deadline.

3. Resume of Bills from past Interium Subcommittee.

   House Bills 142,143, and 144 were reviewed by Stuart Hall, of the Legislative Affairs Agency. see attachment

The Meeting was adjourned.

The next Meeting will be called by the Chairperson,Rep. Kathryn Ostrosky.

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However, we have reason to believe that some of these, at least, prompted the University to engage in in-depth self-studies of its program and its future and to attempt to make changes in certain budgetary, management and personnel practices and procedures that perhaps otherwise would not have occurred. Additionally, we introduced and guided to enactment legislation making important revisions in the student financial aid program of scholarship loans, tuition grants and saw the establishment of a memorial scholarship loan program which permits the state's employees, in the latter instance, to make contributions of annual leave for particular scholarships identified with prominent Alaskans in special fields of endeavor.

In 1974 the Legislature enacted a measure of great significance. Following the lead of the Congress in enacting the Education Amendments in 1972, this Legislature established the Alaska Commission on Post-Secondary Education. Although the Commission has not as yet been formally organized, we believe this Commission will provide an important focal point for coordinating the planning of future higher education development in this state. We think it is important to remind our colleagues that this agency, which will operate independently of, but for administrative purposes only within the Department of Education, has been assigned the administration of all of the higher education and post-secondary programs that are not part of the administration or operation of our statewide university or of any other private institutions and colleges in the state. The Commission has both important advisory responsibilities as well as administrative duties imposed upon it and we have urged the Governor to enable this Commission to get an early start in its work by appointing the five public members and the interim representative of the community colleges at the earliest possible moment.

Turning now to the legislation we recommend to you for 1975, we are submitting today five measures. First, two memorial resolutions, one in the Senate and one in the House, honoring the memory of two noble leaders in higher education in Alaska, Dr. Orin R. Stratton, the retired president of Sheldon Jackson College in Sitka and William A. (Bill) O'Neill, for 25 years a member of the University of Alaska's Board of Regents.

HB 142

There is, in addition, a bill which makes technical corrective amendments to the Alaska Commission on Post-Secondary Education Act, Chapter 78 of the Session Laws of 1974. The 1974 Legislature, which established the Commission, made the Commission responsible for the administration of the State's participation in the Western Interstate Compact on Higher Education. Prior to 1974, the program was administered by the Governor's office and by one of the Commission's members who was usually a member of the faculty or administration of the University of Alaska. However, in transferring the State's participation in WICHE from the Governor's office to the Commission, we neglected to change the certifying officer for the program, a function now performed by Dr. Don Dafoe, one of the State's WICHE commissioners and Executive Vice-President of the University of Alaska. At his suggestion, we are designating the executive officer of the Alaska Commission on Post-Secondary Education as the certifying officer for the State's participation in the WICHE. Other sections of the bill merely correct omissions of language that should have been incorporated in the statute passed at the last session,

corrects other incorrect cross-references and clarifies some of the wording to conform to the language of the student financial aid program revisions made by Chapter 136 of the Session Laws of 1974.

We turn now to the two most important measures which we are submitting to you. First, we once again recommend that the existing community College Act, which dates back to 1962, be revised. We recommended similar legislation to the Eighth Alaska State Legislature, Second Session, in the form of House Bill 541, which passed the House but which remained in the Senate Committee on Health, Education & Social Services. During the between session interim period, your Interim Committee on Higher Education re-examined this proposed revision of the Community College Act and presents to you essentially the same bill, but with some changes to which we call your attention. First, as in the 1974 measure, the bill establishes criteria for the creation of community colleges and extension centers and requires for the first time that a feasibility study of the need for a college or center be completed by the proponent of it before it is established. Although the study must be approved by the Board of Regents, the 1975 legislation now permits the feasibility study to be prepared by citizens in the community desiring the community college, by the Board of Regents itself or by the Legislature, the Alaska Commission on Post-Secondary Education, or the State Advisory Council on Community Colleges, which will be organized by the Commission once it itself is organized and in business. Extension centers are authorized as an alternative to a community college in those areas where a comprehensive community college program is not warranted in terms of educational needs, as determined by the feasibility study.

Secondly, the bill eliminates the present requirement that two sets of financial records and two sets of personnel records be maintained for degree and non-degree programs sponsored respectively by the University of Alaska and the local school district or municipality with which the University contracts for the establishment of a community college. The present situation is confusing and often results in a local community college not receiving back revenues for non-degree or community interest courses paid for by students for that purpose. The bill requires the University to prepare a complete program budget for each community college, showing all sources of revenue, a procedure which the University is not presently obliged to do. Thus, the Legislature will get a better picture of community college and extension center programs and operations.

Thirdly, the bill establishes a vice-president for community colleges as the principal administrative officer in the statewide administration who is to be responsible for the community college and extension center system within the University. He will work with the community college and regional administrators, at the same time giving the community colleges direct access to and representation in the office of the president of the university. Under the present administrative arrangement, the community colleges are merely assigned to one of the other officers of the University as an additional duty and not as a principal responsibility. We think that because the community college students represent by far the greatest proportion of the enrollment in the University of Alaska's statewide system, they are entitled to far more meaningful representation in the statewide administrative structure

than they presently are accorded. We respectfully suggest that unless this type of administrative arrangement we propose is established, a great deal of pressure may be brought upon the Legislature to establish the community colleges and extension centers as a separate and distinct institutional arrangement apart from the statewide university. We do not believe that to be sound educational administration because it would ensure that two separate educational systems would be competing before the Legislature for appropriations and other sources of support. We think that would weaken the quality of higher education in the State of Alaska. At the same time, we also believe that a separate vice-president for community colleges in the statewide university system would ensure the maintenance of the identity of the community college program within the University of Alaska without the creation of any additional unnecessary layers of administration. We believe that the community college program has been highly successful in Alaska because it has met the needs of the communities each college serves. Many of the community colleges have developed unique programs of their own, and it is interesting to note that the newest community college, Tanana Valley, located in Fairbanks, opened in the fall of 1974 with more than 1,000 students enrolled. It became instantly the second largest community college in the state without diminishing in any way the enrollment at the Fairbanks campus of the University, which at the same time was increasing by 2 percent. We suggest that this clearly demonstrates that the University of Alaska was not really meeting the post-secondary educational needs of the Fairbanks community and that the new Tanana Valley Community College was reaching out to do so. We think this type of innovative strength should be recognized in the highest councils of the University.

Fourthly, the bill establishes the community college advisory councils as statutory bodies and clarifies the tenure in office of their members as well as the duties and responsibilities of the council for each community college. Originally conceived as public relations "fronts" for the university to sell bond issues, these advisory bodies now should have input into the statewide university system, including the Board of Regents. The statutory provision will ensure that because the Regents have not devised regulations governing the advisory councils, membership on these councils will be meaningful and the contribution of time and effort made by members of these bodies throughout the state will have some significant impact on the development of educational policy for the statewide university system.

Finally, it is important to note that the bill makes no change whatsoever in the status of any existing community college or extension center. In other words, it is not possible under this legislation to downgrade a presently existing community college to an extension center.

We believe that it is important that a revision of the Community College Act be enacted at the 1975 Session of the Alaska State Legislature. This bill, in one form or another, has been under consideration since 1972. We learned during the course of our hearings, particularly in Fairbanks this last fall, that had this bill been enacted by the Legislature in 1974, it would have been most helpful in the establishment and organization of the Tanana Valley

Community College because it would have eliminated the need for extensive duplicate type of record keeping that this presently outmoded law requires and would have materially assisted in the negotiations between the University of Alaska and the North Star Borough School District. We urge the Legislature's favorable consideration of this measure at an early date.

HB 143

Finally, the Committee offers for the consideration of the Legislature another measure that was before the Eighth Alaska Legislature, Second Session, in substantially the same form in which it is presented to you today, namely House Bill 836, an act relating to the regulation of post-secondary educational institutions. The bill in its present form, as in 1974, is the result of a report of the Task Force on Model State Legislation for Approval of Post-Secondary Educational Institutions and Authorization to Grant Degrees, undertaken by the Education Commission of the States and recommended to the several state legislatures in June, 1973.

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This is a consumer protection measure which significantly broadens the existing Alaska law, popularly known as the "anti-diploma mill" bill. Expert testimony by a staff attorney for the Federal Trade Commission as well as by an attorney for the Consumer Protection Division of the Attorney General's Office during the course of extensive hearings on this measure this last fall persuades this Committee that it is absolutely urgent that Alaska significantly expand the coverage of the existing regulatory statute. Formerly the responsibility of the Department of Education, the Alaska Commission on Post-Secondary Education is now charged with issuing licenses and permits to operate as a post-secondary educational institution, because the Legislature reasoned that along with the planning function imposed upon the Commission should go the responsibility for regulating the entry into the post-secondary educational field in this state. Under present law, certain post-secondary educational institutions are required to be registered and licensed by the Department of Education or the Post-Secondary Education Commission if they are diploma-granting institutions. Also, it is required that if an institution uses the term "college" or "university" in its name, it also must be authorized to do so. The purpose of this type of legislation is to eliminate consumer abuse, primarily in the area of the private vocational school industry, that is intended to provide students with training that results in jobs. Alaska has had its share of problems with private vocational schools, as testimony last fall noted. The Federal Trade Commission advised us that it was investigating, for example, a Washington-based school operating in Alaska which had been accused by one of our residents of falsely advertising job opportunities, placement assistance, credit terms and membership in a phony professional organization. Responsible state and federal agencies believe that one of the side effects of oil development in this state will be to attract the "con man" and the "bunco artist" that prey upon the desire of people to advance in their occupation or profession by taking vocational type courses. As the attorney for the Federal Trade Commission observed, this is the time to adopt strong state legislation to keep out-of-state operations from seeking to exploit Alaska's new wealth and student market before the community college system is fully developed.

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In testimony before the Legislative Interim Committee on Higher Education, the Federal Trade Commission's staff attorney, Mrs. Sharon Armstrong, stressed the necessity for legislation at the state level and listed at least three reasons why State law in this area is so important. First, testimony indicated that present accreditation does not prevent consumer abuses in the industry. It was pointed out that some schools are accredited by dummy organizations and even if a school is accredited by a legitimate agency recognized by the U. S. Office of Education, the agencies themselves are supported by dues paid by member schools. Therefore, their investigations are often self-serving and subject to bias. The criteria for accreditation frequently is minimal and investigations are conducted only infrequently. In fact, of the four major vocational school cases before the Federal Trade Commission now, three involve schools that are accredited. And even though accreditation has had little impact on quality control, the Department of Health, Education & Welfare approves almost automatically any accredited school for participation in the federally insured student loan program. In 1972 alone, it was pointed out, HEW provided $214 million to private vocational school students. While this amount accounted for only 30 to 35 percent of all FISL loans, it represents 60 to 75 percent of all the defaults. Students, it was observed, are less willing to pay back loans when they feel they have been gypped.

The second reason the Federal Trade Commission attorney urged adopting strong state legislation in this area is that the Veterans Administration is required by statute to delegate most of its supervisory duties over private vocational schools to state approval agencies. The state agencies, in turn, can either rely on accreditation as a standard for approval or they can set their own standards. Once the state agency approves a course, the VA is required by law to pay out veterans benefit funds. In 1972 it was pointed out that the VA paid out $381 million in benefits but over a five year period the government accounting office reported that 75 percent of the veterans enrolled in correspondence schools dropped out. Clearly, it was observed, there is a great need for comprehensive legislation to enable state agencies to save taxpayer dollars.

The third reason for adopting a strong state law is that the Federal Trade Commission, its staff attorney pointed out, does not have the jurisdiction or resources to reach more than a few of the problems in the vocational school industry. At the present time, the Commission is formulating a trade rule which would require factual documentation of earnings or employment claims, require disclosure of drop-out rates, require a 10 day cooling off reaffirmation period before contracts become effective, and provide for pro-rata refunds to students who do not complete courses. While helpful, this rule only touches the tip of the iceberg of abuses. It cannot prevent them. It does not in any way regulate quality and it may not be adopted for many months. Since 1970, it was pointed out, the Federal Trade Commission has issued 25 complaints against vocational schools and many cases are under investigation. However, the Commission's law enforcement authority comes into play only after Section 5 of the Federal Trade Commission Act has been violated. With over 10,000 schools in operation the Commission may not detect violations until hundreds of students have been cheated. Many violations are never detected. Enforcement may require long and complicated litigation.

The Commission has no authority to deny or suspend eligibility to participate in government programs such as FISL, veterans benefits or those sponsored by the Bureau of Indian Affairs. It has no jurisdiction over schools whose operations are wholly intrastate in character. In short, the Federal Trade Commission attorney pointed out, state agencies are in the best position to prevent unfair and deceptive acts or practices before they occur because state agencies can keep shady operators out of the State. With this in mind, the Federal Trade Commission is encouraging all 50 states to adopt the education commissions of the state's model post-secondary education authorization act. The FTC attorney observed that House Bill 836 of the 1974 session, Alaska's version of the model act, would provide a comprehensive scheme for quality control of vocational schools. It goes far beyond the FTC's trade rule, she said, and moreover would serve as an alternative to federal involvement in an industry considered by many to be a State concern.

Specifically, the legislation we offer today would:

First, establish minimum criteria for determining whether an institution may operate within the State, the most important criteria being the school's ability to enable students to achieve the school's stated objectives and to ensure that the school has the means of doing so.

Secondly, it would require truth in advertising as well as affirmative disclosures of relevent information in order to adequately inform prospective students prior to their enrollment.

Thirdly, it would clearly define procedures and conditions under which any school or sales employee may be authorized to operate in the State. It would require bonding of both schools and their agents and allow for denial or revocation of authorization to operate in the State.

Fourthly, it would provide procedures by which a student may lodge a formal complaint against a school and, if justified in the judgment of the Alaska Commission on Post-Secondary Education, obtain an award of damages.

Fifthly, it would prevent use of the "holder in due course" doctrine under which an institution uses a third party to collect payments from a student for services that are not provided.

Finally, it is important to note that this bill would establish a requirement that schools going out of business would be required to deposit their academic records with the Alaska Commission on Post-Secondary Education. It would now appear from the announcements that have been made by Alaska Methodist University and the negotiations which are on-going between AMU and the University of Alaska that the former institution will close its doors with the end of the Spring, 1975 semester. Your Interim Committee on Higher Education believes it is imperative that this particular requirement be enacted so that alumni of Alaska Methodist University will be able to secure transcripts of their records here in the State of Alaska, rather than to have to appeal to a distant body, namely the National Board of Missions of the Methodist Church to obtain a transcript of their records at this school. Thus, this measure is extremely timely. It carries an immediate effective date clause and we strongly urge our colleagues to give

this measure early favorable consideration at the first session of the Ninth Alaska Legislature. We believe this bill will provide an excellent device for regulating private vocational school industry operations primarily in Alaska as well as overseeing the operations of other private post-secondary educational institutions to ensure the maintenance of high quality post-secondary educational opportunities.

McLean Associates 562 West Royal Palm Road
Phoenix, Arizona 85021
Telephone (602) 944-1904

Sub-Committee
Sent to Rep. Ostrosky

13 February 1975

Senator Genie Chance
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Senator Chance:

At your suggestion, I am writing this letter to indicate how we can serve most effectively as consultants on higher education to the Legislature during the period from February 1, 1975, through January 31, 1976.

In light of the fact that the Alaska Commission on Post-Secondary Education (the 1202 Commission) has not yet been organized, the Legislature continues to be in need of expert counsel on the rapidly changing higher education scene. My judgment is that we can be involved most effectively in the following ways:

(1) serve as the legislature's professional staff in higher education, particularly as the issues pertain to educational legislation and budgets;

(2) serve throughout the year as a continuing information-gathering group in order to keep the Legislative Council, the Interim Committee on Higher Education, and the Legislature closely informed on developments in Alaska higher education.

In order to perform these functions, Stephen McLean of McClean Associates would be coordinator and I would serve as Project Director; we would bring in regularly consultants from across the nation who are experts in the areas in which there are particular problems or issues in Alaska higher education, as well as in the development of instructional television.

Even though these functions should eventually be assumed by the newly enacted Alaska Commission on Post-Secondary Education, the Commission, in our opinion, would be unable to become an effective agency for the next several months because it will need to organize itself, elect a chairman and vice chairman, select an executive director, and plan its course. During its formative period, the Commission will need unbiased, professional

Phoenix, Arizona 85021
Telephone (602) 944-1504

guidance, which we can provide. Among the specific functions which I perceive to be desirable for us to perform during the coming twelve months would be

(1) provide professional expertise to the Legislature on Alaska Methodist University's announced plans to negotiate the sale of their campus to the University of Alaska.

(2) serve as a coordinator to bring together the experts and the resources for developing the technological delivery system, including instructional television, for post-secondary education in rural Alaska;

(3) function as a resource to interpret pertinent materials and programs from other parts of the country regarding their possible application in Alaska higher education;

(4) evaluate any new programs proposed by any of the institutions in Alaska in an effort to avoid duplication and waste of funds;

A number of matters and issues most likely will be important and probably should have special study during the year. This list includes, but is not limited to the following:

(1) the future of programs and personnel of Alaska Methodist University;

(2) the function of the University of Alaska in extended, diversified education for Alaska Natives;

(3) the strengthening of relationships between vocational-technical programs and the community colleges;

(4) preparing for the possibility of satellite television and producing the kinds of "software" in the form of courses, mini-courses, individual lessons, and other relevant materials for different parts of Alaska;

(5) the need for a study of what is happening to the students who have attended the community colleges-to include both graduates and dropouts from the community colleges;

(6) the need for a definitive study on fee structures within the University with particular reference to the possibility of going to the arrangement of charging different fees at different educational levels, rather than standardized;

(7) the need to prevent fraudulent educational activities such as "diploma mills".

I would anticipate that my colleagues and I would be able to bring a continuing objectivity to the evaluation of higher education in Alaska and to recommendations for the future. Since Alaska State government appropriates such a high percentage of the State's budget for higher education, the thrust of our proposal is that our group would serve the Legislature as a professional staff in this field so that the State would be exposed to alternatives and to objective data on higher education proposals.

This should result in considerable savings to the State by reducing its expenditures in higher education, as well as producing better coordination, effieiency and service.

We would expect to file a final report on our work by January 31, 1975, as we have done in previous years, in which we would analyze developments in higher education during the year and make recommendations for the future. We are particularly pleased that such a high percentage of the recommendations we have made in previous reports have been adopted.

The first contract between the Legislative Council and McLean Associates was $50,000; for the past year's contract, which expired January 31, it was $40,000, including $10,000 for additional consultants. I have carefully calculated the costs, especially for bringing in experts from Caltech's Jet Propulsion Laboratory and satellite television specialists and, recognizing the service to be involved during the next twelve months, propose the same figure of $40,000 for the period from February 1, 1975 to January 31, 1976. This sum would include all travel of all the individuals involved, the consulting fees, and all related expenses.

We feel the next twelve months in Alaska will be crucial in the history of higher education and would be pleased to be a part of it.

Sincerely,

Armen Sarafian

Armen Sarafian
Project Director

dedicated

ROBERT W. HIATT
PRESIDENT

UNIVERSITY OF ALASKA
OFFICE OF THE PRESIDENT
FAIRBANKS, ALASKA 99701

March 4, 1975

Mr. Rich Guthrie
Fiscal Analyst
Legislative Budget and Audit Committee
Pouch WF
Juneau, Alaska

Dear Rich:

On 28 February Don Dafoe replied to an inquiry by you relating to AMU physical assets.

The AMU Trustees' Committee made a proposal to the Board of Regents and the Board replied after sitting as a full Board. These documents are enclosed. This is the latest in negotiating events. I am also enclosing for your use and distribution as you see fit a synopsis of the AMU land purchases from BLM. As you can see, a total of $102,000 was paid for 505 acres. The State paid them $2,000,000 for 186 of those acres in 1972.

As to Bob Bradley's questions:

1. There is a federal involvement (HUD) in the financing of AMU facilities. The indenture, arrears interest payments and penalties are listed in their proposal. We are checking with HUD to verify their accuracy and to learn whether HUD would be willing to shift these debts to the University of Alaska.

2. There is an amendment applicable to all parcels of AMU lands which requires their dedication in perpetuity for educational, recreational or health uses. This was placed on record when the State made the $2,000,000 land purchase in 1972.

3. Independent appraisals of the AMU properties have been completed. We are not privy to AMU's appraisal, but ours is appended. We are now requesting an appraisal on "deferred maintenance" and on furniture and fixtures.

I should note that the land appraisals have been made on the basis of commercial values, for this is about the only basis available to appraisers. Naturally, lands dedicated for restricted uses, such as these, will be actually valued at a far lesser amount.

I probably will be in Juneau next week and would be pleased to meet with Bob Bradley and others on this or other matters. Please give him copies of the materials enclosed.

Best personal regards,

Sincerely,

Bob

Robert W. Hiatt
President

RWH:dm
Enclosures

PLEASE REPLY BY AIRMAIL

ORIGINAL VALUES & AMOUNT PAID FOR ANU LANDS

(INFO FROM BLM ANK. FILES)

PATENT NO.	ACREAGE	APPRAISED	DISC. ALLOWED	PAID	$/ACRE
1150278* November 28, 1958	242.5	$ 36,375.00	68%	$11,640.00	$ 48.00
(1188433) same date		$ 150.00 acre			
50-64-0186+ June 2, 1964	227.5	$204,750.00 $ 900.00 acre	70%	$61,425.00	$ 270.00
50-64-0187+ June 2, 1964	35	$ 58,975.00 $ 1,685.00 acre	50%	$29,500.00	$ 842.85
Total appraised	505 A	$302,105.00		$ 598.21/acre	
Total paid	505 A	$102,565.00	66%	$ 203.10/acre	

REFERENCE: ANU Real Estate produced by Tryck, Nyman & Hays on file in University of Alaska Planning files.

These are patents to the land and therefore title is held by ANU and they can sell or lease as long as they do not violate the restrictive clauses. The 50 patent has a re-issue (PAT.1188433), but the original was not cancelled, so there are two patents for the same land.

* Reverter clause expires at end of 25 years from issue.
+ Reverter clause runs in perpetuity.

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement is made the ____ day of March, 1975, by and between the University of Alaska (hereinafter UA) and Alaska Methodist University (hereinafter AMU).

W I T N E S S E T H:

WHEREAS, AMU is willing to sell its campus and buildings and certain personal property at Anchorage, Alaska; and

WHEREAS, UA is desirous of purchasing said campus, buildings and personal property;

NOW, THEREFORE, the parties agree as follows:

1. AMU agrees to convey to UA in fee simple absolute its entire campus at Anchorage, Alaska, with the exception of the following described parcels:

Parcel No. 1

The West half (W 1/2) of the North half (N 1/2) of the Northeast quarter (NE 1/4) of the Southeast quarter (SE 1/4) of Section 28 (S28), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 2

The West half (W 1/2) of the Northeast quarter (NE 1/4) of the Northeast quarter (NE 1/4) of the Southeast quarter (SE 1/4) of Section 28 (S28), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 3

The South half (S 1/2) of the Southwest quarter (SW 1/4) of the Southeast quarter (SE 1/4) of the Northeast quarter (NE 1/4) of Section 28 (S28), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 4

The Southwest quarter (SW 1/4) of the Southeast quarter (SE 1/4) of the Southeast quarter (SE 1/4) of the Northeast quarter (NE 1/4) of Section 28 (S28), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 5

All that portion south of University Drive of the North half (N 1/2) of the Southwest quarter (SW 1/4) of the Southeast quarter (SE 1/4) of the Northeast quarter (NE 1/4) of Section 28 (S28), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

The land which is agreed to be conveyed hereby, excluding the above-described parcels, contains approximately 265 acres and is more fully described as follows:

Parcel No. 1

The East quarter (E 1/4) of the Northeast quarter (NE 1/4) of the Northeast quarter (NE 1/4) of the Southeast quarter (SE 1/4) of Section 28 (S28), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 2

The East half (E 1/2) of the East half (E 1/2) of the Southeast quarter (SE 1/4) of the Northeast quarter (NE 1/4) of Section 28 (S28), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 3

The North half (N 1/2) of the South half (S 1/2) of the Northeast quarter (NE 1/4) of the Southeast quarter (SE 1/4) of Section 28 (S28), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 4

The South half (S 1/2) of the South half (S 1/2) of the Northeast quarter (NE 1/4) of the Southeast quarter (SE 1/4) of Section 28 (S28), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 5

The South half (S 1/2) of the South half (S 1/2) of the Northwest quarter (NW 1/4) of the Southwest quarter (SW 1/4) of Section 27 (S27), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 6

The North half (N 1/2) of the South half (S 1/2) of the Northwest quarter (NW 1/4) of the Southwest quarter (SW 1/4) of Section 27 (S27), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 7

The North half (N 1/2) of the Northwest quarter (NW 1/4) of the Southwest quarter (SW 1/4) of Section 27 (S27), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 8

The Northwest quarter (NW 1/4) of the Northeast quarter (NE 1/4) of the Southwest quarter (SW 1/4) of Section 27 (S27), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 9

The North half (N 1/2) of the Southwest quarter (SW 1/4) of the Northeast quarter (NE 1/4) of the Southwest quarter (SW 1/4) of Section 27 (S27), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 10

The South half (S 1/2) of the Southwest quarter (SW 1/4) of the Northeast quarter (NE 1/4) of the Southwest quarter (SW 1/4) of Section 27 (S27), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 11

The East half (E 1/2) of the Northeast quarter (NE 1/4) of the Southwest quarter (SW 1/4) of Section 27 (S27), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 12

The South half (S 1/2) of the Northwest quarter (NW 1/4) of Section 27 (S27), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 13

The Northwest quarter (NW 1/4) of the Northwest quarter (NW 1/4) of Section 27 (S27), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 14

The South half (S 1/2) of the Northeast quarter (NE 1/4) of the Northwest quarter (NW 1/4) of Section 27 (S27), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 15

The Northwest quarter (NW 1/4) of the Northeast quarter (NE 1/4) of the Northwest quarter (NW 1/4) of Section 27 (S27), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 16

All that portion south of University Drive of the North half (N 1/2) of the Southwest quarter (SW 1/4) of the Southeast quarter (SE 1/4) of the Northeast quarter (NE 1/4) of Section 28 (S28), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

Parcel No. 17

All that portion south of University Drive of the Northwest quarter (NW 1/4) of the Southeast quarter (SE 1/4) of the Southeast quarter (SE 1/4) of the Northeast quarter (NE 1/4) of Section 28 (S28), Township 13 North (T13N), Range 3 West (R3W), Seward Meridian.

2. AMU agrees to transfer to UA all improvements on said real property. The buildings include the following:

a. Gould Hall

b. Grant Hall

c. Campus Center Buildings

d. Behavioral Science Building

e. Faculty housing (9 units)

f. Maintenance and storage buildings

3. UA agrees to pay the sum of $20,000,000.00 for the above-listed real property and improvements. The terms of said payment shall be as follows:

a. The sum of $3,000,000.00 as a down payment. Said down payment shall be reduced by the sum of the obligations for salary at current AMU rates assumed by UA as a result of the termination by AMU of its faculty contracts due to the closure of AMU and the employment by UA of some or all of the AMU faculty. The exact sum of said obligation shall be determined prior to May 1, 1975, by the joint UA-AMU administrative task force subject to the approval of the Presidents of the two Universities and shall be limited to the salary obligations at current AMU rates for faculty actually employed by UA for the 1975-1976 school year.

b. UA shall assume AMU's rights and obligations under that certain Indenture dated October 1, 1972, between AMU and the First National Bank of Anchorage, as Trustee, and under that certain Indenture dated April 1, 1966, between AMU and the First National Bank of Anchorage, as Trustee. The said Indentures have a principal balance of $2,721,000.00, of which principal balance the sum of $100,000.00 is presently in arrears. The additional sum of $250,000.00 is presently due and owing under said Indentures, which sum includes $95,000.00 interest in accordance with the payment schedules under said Indentures, $140,000.00 deficiency in the sinking fund provided for in said Indentures, and the sum of $15,000.00 in miscellaneous interest and penalties under said Indentures. UA agrees to assume all of said principal, interest and penalty obligations and bring all arrearages current. It is understood by the parties that the concurrence of the Trustee and the bond holder under said Indentures will be required prior to the assumption by UA of AMU's obligations under said Indentures. The parties agree to jointly approach said Trustee and bond holder to secure their approval to the assumption. The purchase price set out hereinabove shall be reduced by the amount of the assumed indebtedness under said Indentures.

What a plush legislature!

c. The first installment of the down payment shall be due on or before April 1, 1975 and shall be the sum of $1,000,000.00. The balance of said down payment shall be due on July 1, 1975.

4. AMU shall, in addition, sell to UA furniture, fixtures and other personal property for the additional sum of $800,000.00. Schedules of said furniture, fixtures and other

personal property shall be prepared and affixed to this agreement as exhibits. The parties understand that certain personal property may be subject to restrictions in the applicable deed of gift and AMU may therefore be required to retain said property.

5. The balance due of the purchase price shall be paid in equal annual installments commencing on the 1st day of July, 1976, and continuing annually thereafter on the 1st day of July until the total purchase price, together with interest at the rate of 8.5% per annum on the unpaid balance, is paid in full. To high ! ! ($6\frac{1}{2}$%)

6. The unpaid balance due under the terms of this agreement shall be evidenced by a promissory note which shall be secured by an appropriate deed of trust on the real property and improvements transferred hereby and by an appropriate security agreement covering the personal property transferred hereby. The deed of trust and security agreement shall be superior to all other security interests in said real and personal property with the exception only of the Indentures described in paragraph 3(b) hereinabove. The deed of trust and security agreement shall provide for a minimum of six months within which any default under said deed of trust and security agreement may be cured by UA.

✓7. AMU shall retain its art collection and its Alaskana library.

8. AMU shall retain office space in Grant Hall. The office space retained shall be the southwest corner of Grant Hall from the present front counter to the west side of Grant Hall and from the south side of Grant Hall to the boiler room, (executive and business suite) together with three offices on the east side of the main hall on the first floor of Grant Hall, which offices presently contain the University Development Offices, Grants office and the institutional research office. AMU shall lease

all of said offices from UA for an annual rental of $1.00 per year. AMU shall retain title to the furniture, fixtures and office equipment presently located in said offices.

9. UA agrees to hire the present AMU registrar on a permanent basis to maintain the AMU student records.

10. The parties through the negotiating committees, the Board of Regents and Board of Trustees respectively, and through the parties' legal counsel shall cooperate fully in securing approval of the sale by the Legislature of the State of Alaska and by the United States Department of the Interior. Both parties agree to use their best efforts to promptly secure the approval of both of said agencies.

11. The details regarding the implementation of the transfer of the property and improvements of AMU to UA shall be negotiated by the joint AMU/UA administrative task force subject to the approval of the Presidents of the two institutions. Any dispute which cannot be finally resolved between those groups shall be submitted to the sale negotiating committees appointed by the Regents and Trustees of the two universities. Any dispute which cannot be resolved through negotiations between that committee shall be submitted for arbitration by the parties under the rules of the American Arbitration Association. The results of said arbitration shall be binding upon the parties.

12. It is understood and agreed by the parties hereto that this agreement is a preliminary agreement intended to express the general understanding of the parties with regard to the terms of the sale and that this agreement may require amendment, modification or substitution at a later date.

DATED the day, month and year first written hereinabove.

UNIVERSITY OF ALASKA

By: _____

Its _____

ALASKA METHODIST UNIVERSITY

By: _____

Its _____

March 3, 1975

TO: Alaska Methodist University Trustees' Committee

FROM: University of Alaska Board of Regents

RE: Responses to AMU Trustees' Draft Memorandum of Agreement Concerning the Sale of the AMU Campus, Buildings, Furniture and Fixtures

The Board of Regents met on Friday, 28 February to review and respond to the draft Memorandum of Agreement (MOA) concerning the sale of the AMU campus, buildings and certain personal property at Anchorage submitted by the Reverend Ac C. Wischmeier to Mr. Robert McFarland, President of the Board of Regents of the University of Alaska.

The Board concurred on certain important basic approaches with respect to this transaction which provided direction for specific responses to points made in the draft MOA. These are herewith noted and form a preamble to the specific responses detailed later.

The transactions between Alaska Methodist University and the University of Alaska being entered into now differ fundamentally from those resulting in the purchase of AMU lands in 1972. The 1972 land purchase was the most convenient vehicle available to the State of Alaska for providing major substantive financial aid to AMU for the express purpose of maintaining AMU as a viable institution so that it might continue to provide Alaskans seeking post-high school education a choice between public and private educational delivery systems. Because of this objective, the land involved was priced and acquired at near or at its "fair market value" without patent restrictions.

The current transaction is not involved with the maintenance of AMU as an institutional alternative to public higher education in Alaska, but rather one which will enable AMU to close its operations, pay its incurred debts and ostensibly establish an organization with any remaining funds, the nature of which is yet unknown but which will in some manner benefit higher education in Alaska. The resulting organization, presumably will be eleemosynary.

The AMU campus lands are dedicated in perpetuity for educational, recreational or health purposes. They were given to AMU without fee for educational purposes. Thus, although the appraisers had no choice but to value the lands on the basis of current commercial transactions in the vicinity and to assume that there was no restriction on the title, the Regents feel that a token payment should be negotiated for said lands.

The Regents wish to make clear to the AMU Trustees that the amount and schedule of payments are the prerogative of the Legislature and the Governor. To effect this transaction in the most expeditious and timely manner the Regents and the Trustees should present to these State governmental bodies an agreed program fully and jointly supported. The President of the Board of Regents, Mr. McFarland, invites your Trustees' Committee to meet with the Regents' Committee at the earliest date possible following receipt of this response to the draft MOA.

Herewith are the specific responses to the numbered points set forth in the draft MOA.

1. The Regents are willing to negotiate an excepted parcel of land for AMU use, but not necessarily the parcels specified in the draft MOA. An explanation of uses to be made of the property and choices of location can be presented for resolution at the joint negotiating Committee meeting.

2. Acceptable.

3. The Regents are agreeable to negotiating a total sum for the campus and buildings based upon (1) a fair appraisal of the buildings which has taken into consideration their deferred maintenance; (2) a fair appraisal of furniture, fixtures and other personal property; and (3) a sum which is based upon a token payment for land dedicated to educational use.

3a. Acceptable, depending upon legislative appropriation.

3b. Acceptable dependent upon the Regents' negotiations with HUD concerning the now delinquent sums. Should the Regents be unable to negotiate any or all of these delinquent sums with HUD, such sums would have to be deducted from the specified down payment of $3,000,000.

3c. Acceptable, but subject to legislative approval.

4. Acceptable in principle. The Regents' appraiser has not considered these items, but will do so when a schedule of said items is prepared.

5. Schedule of payments will depend upon legislative approval. Because an eleemosynary organization is contemplated with the sale's net proceeds, the Regents believe a prime rate of interest improper, and will agree instead to a rate of 5 per cent subject to legislative approval.

6. Acceptable.

7. Acceptable providing the Alaskana library is not part of the Consortium Library collection already purchased and owned by the University of Alaska.

8. Retention of office space specified in Grant Hall is not acceptable. Should furniture, fixtures and office equipment presently located in such offices not be involved in the sale, the schedule of appraisals should clearly omit it.

The Regents would consider the rental of space to the AMU successor organization in locations and under conditions agreeable to the Administration of the University of Alaska.

9. This proviso is not acceptable for inclusion in this MOA. The joint Administrations are now planning for the transfer of selected personnel, programs and other important aspects, such as student records, from AMU to the University of Alaska. This matter will be included in that transaction.

10. Acceptable.

11. With the deletion of the last two sentences referring to "arbitration," this point is acceptable.

11a. (Board of Regents' statement re litigation) AMU will hold UA harmless for any litigation or liability arising in relation to the operation of AMU or arising prior to the transfer of possession of the premises to UA.

12. Acceptable.

Robert W. Sfiatt

Robert W. Sfiatt
Executive Officer of the Board of Regents

RWH:dm

DIRKSEN APPRAISAL COMPANY

PAUL P. DIRKSEN, S.R.A.-R.M. *531 West Third Avenue, Anchorage, Alaska 99501* *(907) 277-8675*

December 31, 1974

RECEIVED
OFFICE OF PLANNING &
INSTITUTIONAL STUDIES
DIST. JAN 3 1975 LOG # 2
DCM | RAH | LD

Dr. Donald C. Moyer
Director of Planning
University of Alaska
Fairbanks, Alaska 99701

Re: Appraisal of Alaska Methodist University

Dear Dr. Moyer:

As requested, I have made an inspection and preliminary analysis of the value of land and buildings owned by Alaska Methodist University. The land is described as follows:

The NW¼ Section 27 EXCEPT The NE¼ NE¼ NW¼ Section 27;
The N½ SW¼ Section 27;
The NE¼ SE¼ Section 28;
The SE¼ NE¼ Section 27 lying South of University Drive;
The E½ E½ SE¼ NE¼ Section 27 lying North of University Drive;
The SW¼ SE¼ SE¼ NE¼ North of University Drive.

The gross area is approximately 292.69 acres.

Alaska Methodist University proposes to sell this property to the University of Alaska. The purpose of this preliminary estimate is to ascertain a fair price to be paid for the real estate. While the final appraised value may vary somewhat from this preliminary estimate, it should not be significantly different.

In my opinion, the Market Value of the Alaska Methodist University real estate as of December 27, 1974 is:

NINETEEN MILLION, TWO HUNDRED THOUSAND

($19,200,000)

See p.6 for restriction on release of this info. to public media!

Allocation:

	Improvements	Present Value
(1)	Underground Utilities	$ 277,186
(2)	Parking	69,027
(3)	Student Union	5,663,886
(4)	Grant Hall	3,654,509
(5)	Gould Hall	1,409,600
(6)	Behavioral Sciences	31,159
(7)	Shop Garage	52,029
(8)	Ski Jump	67,900
(9)	Carillon	72,750
(10)	Tennis Courts	28,384
(11)	Hockey Rink	24,302
(12)	Landscaping	158,586
(13)	Faculty Residences (including land)	652,500
	Total Improvements	$12,161,818
	Land	7,000,000
	TOTAL VALUE ALASKA METHODIST UNIVERSITY REAL ESTATE	$19,161,818
	(rounded)	$19,200,000

Methodology:

The subject is a special purpose property. The standard method of appraising special purpose properties is to value the improvements based on cost new less depreciation then add the land. Depreciation must include all forms including

physical deterioration, functional obsolescence and economic obsolescence when these elements are present.

The land is zoned PLI, Public Lands and Institutions District, by the Greater Anchorage Area Borough. This district is intended to include major open lands, major public and quasi public institutional uses. The standard method in appraising land in this type of zoning is to substitute the highest and best use of the land as if it were in the private sector. This is because parks and institutional lands very seldom transfer on a Market Value basis. The highest and best alternate use for this land would be for a PUD, which includes condominiums, apartments, a small amount of offices and commercial and possibly some single family residences. The subject land has been valued on this basis.

There is a restrictive covenant in the patent from the Bureau of Land Management to Alaska Methodist University which restricts the use of this land to school purposes. The sale agreement between Alaska Methodist University and the University of Alaska for 197 acres of adjacent land in 1972 also contained a restriction on the remaining Alaska Methodist University land to school purposes. The land value in this preliminary estimate has not been penalized because of the restrictions placed on the land. Prior to completion of the final appraisal, I would like to have an opportunity to discuss the impact of these restrictions with counsel.

The land has been appraised with the streets in place. That is to say, land is more valuable with street frontage than land without street access. Therefore, although the streets are privately owned and maintained, the value of those streets is included in the land value. Near the South end of the property is a 25 acre lake which was created by mining of the gravel resources previously located thereon. Assuming that Chester Creek, which flows nearby, could be diverted in and out of the lake to fill it and freshen it, the lake is an asset to the land. The 25 acre lake area has been deducted from the total land area for purposes of calculation of land value. However, the 58.4 acres surrounding the lake have been valued at a higher unit value than the rest of the land.

The faculty residences have been valued on a comparative basis rather than cost less depreciation. This method includes the land on which a residence is located. Typical lot size for residences of this size is 16,000 square feet each, which would result in 3.31 acres being utilized for faculty housing.

This land value is included with the value of the faculty housing and was, therefore, deducted from the land area which was valued on an acreage basis.

Land Values:

58.4	Acres	@ $35,000/Acre	=	$2,044,000
192.18	Acres	@ $25,000/Acre	=	4,804,500
13.8	Acres	@ $15,000/Acre	=	207,000
264.38	Acres	TOTAL		$7,055,500
25	Acre	Lake		
3.31	Acres	with Faculty Housing		
			(rounded)	$7,000,000

As requested, the above presentation has been abbreviated with the supporting evidence retained in the appraiser's files. The final appraisal, when requested, will contain the back-up evidence for land value, cost of reproduction estimates and the comparable sales utilized in valuing the faculty housing.

The land areas utilized are approximate. No survey was made, and there is no warranty as to land area.

We acknowledge assistance of Terry Gorsuch, Cost Estimator, and Fred Ferrara, Appraiser, in this report.

We wish to thank you for this opportunity to be of service.

Sincerely,
DIRKSEN APPRAISAL COMPANY

Paul P. Dirksen

PPD/sm

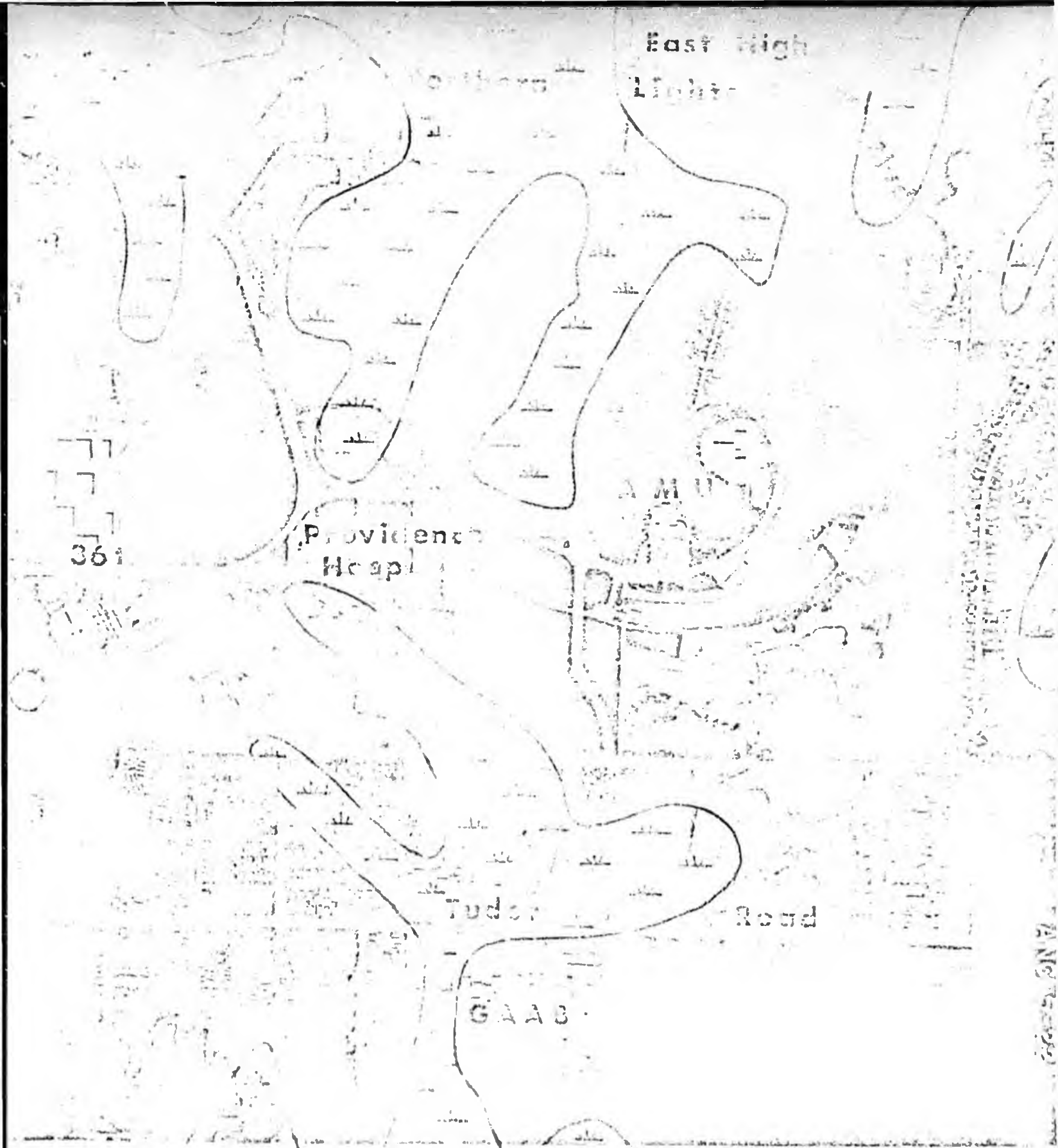
Attachments (5)

Is this guy Wash Dept. Comm. for Public Works - Artist who spoke to Committee

Note to P.

Dr. Moyer

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.


East High
Light
Providence
Hospital
Tudor
Road
Swamp

THE PRECEDING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

ASSUMPTIONS AND LIMITING CONDITIONS

1. No legal questions are considered in this analysis, such as titles, encumbrances, etc.. The property is considered as if free and clear.

2. All dimensions and legal descriptions are assumed to be correct, as furnished.

3. All information, as found in data furnished, is deemed to be reliable. If any errors are found, the right is reserved to modify the conclusions reached.

4. No study has been made to determine whether structures may have an infestation, such as termites or dry rot. In the absence of such study, it is assumed the property is free of such problems.

5. While various "approaches to value" and various mathematical calculations have been used in estimating value, these are but aids to the formulation of the opinion of value expressed by the appraiser in this report. In these calculations, certain arithmetical figures are rounded off to the nearest significant amount.

6. The data and conclusions embodied in this appraisal are a part of the whole valuation. No part of this appraisal is to be used out of context; and, by itself alone, no part of this appraisal is necessarily correct, as being only part of the evidence upon which final judgment as to value is based.

7. Employment to make this appraisal does not require testimony in court, unless mutually satisfactory arrangements are made in advance.

8. This appraisal is made in accordance with the standards of the American Institute of Real Estate Appraisers.

9. Fair Market Value is defined as "the price it (the real estate) will bring between a willing buyer and a willing seller, with equity to both.

10. This report is delivered subject to the stipulation that neither all nor any part of the contents shall be conveyed to the public media through advertising, public relations, news, sales or any other media without the written consent and approval of the author, particularly as to valuation conclusions, the identity of the appraiser, his firm, or any reference to the American Institute of Real Estate Appraisers.

CERTIFICATION:

The undersigned does hereby certify that, except as otherwise noted in this appraisal report:

1. I have no present or contemplated future interest in the real estate that is the subject of this appraisal report.

2. I have no personal interest or bias with respect to the subject matter of this appraisal report or the parties involved.

3. To the best of my knowledge and belief the statements of fact contained in this appraisal report, upon which the analyses, opinions and conclusions expressed herein are based, are true and correct.

4. This appraisal report sets forth all of the limiting conditions affecting the analyses, opinions and conclusions contained in this report.

5. This appraisal report has been made in conformity with and is subject to the requirements of the Code of Professional Ethics and Standards of Professional Conduct of the American Institute of Real Estate Appraisers of the National Association of Real Estate Boards.

6. No one other than the undersigned prepared the analyses, conclusions and opinions concerning real estate that are set forth in this appraisal report.

RESTRICTION UPON DISCLOSURE & USE:

Disclosure of the contents of this appraisal report is governed by the By-Laws and Regulations of the American Institute of Real Estate Appraisers of the National Association of Real Estate Boards.

Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser or the firm with which he is connected, or any reference to the American Institute of Real Estate Appraisers or to the M.A.I. or R.M. designation) shall be disseminated to the public through advertising media, public relations media, news media, sales media or any other public means of communication without the prior written consent and approval of the undersigned.

Paul P. Dirksen

Paul P. Dirksen, S.R.A. - R.M.

DIRKSEN APPRAISAL COMPA

PAUL P. DIRKSEN, S.R.A.-R.M. *531 West Third Avenue, Anchorage, Alaska 99501* *(907) 277-8675*

QUALIFICATIONS OF PAUL P. DIRKSEN, S.R.A., R.M.

PROFESSIONAL AFFILIATIONS:

Society of Real Estate Appraisers, Designation - S.R.A.
President, Anchorage Chapter #158, 1974-75
American Institute of Real Estate Appraisers, Designation - R.M.
American Right of Way Association
Anchorage Board of Realtors

EDUCATION:

Miami University, B.S., 1957, Oxford, Ohio
AIREA Appraisal Course I, Milwaukee, Wis., 1958
AIREA Appraisal Course II, University of Pacific, 1963
AIREA Appraisal Course IV, University of San Francisco, 1964
University of California, 1962 - 1964

BUSINESS EXPERIENCE:

Dirksen Appraisal Company, Anchorage
Alaska Department of Highways,
State Supervising Appraiser
Alaska Attorney General's Office,
Special Consultant on cases related to eminent domain
Savings & Loan Commissioner's Office,
Appraiser Class IV (California)
Lloyd Thomas Company, Chicago, Ill.
American Appraisal Company, Milwaukee, Wis.

COURT EXPERIENCE:

Qualified as Expert Witness in various Superior Courts

TYPICAL CLIENTELE:

Alaska Department of Highways
Alaska State Housing Authority
Greater Anchorage Area Borough
Alaska Department of Public Works,
Division of Aviation and Division of Buildings
University of Alaska
City of Anchorage
City of Fairbanks
City of Juneau
U.S. Coast Guard
Washington Highway Commission
San Francisco Bay Area Rapid Transit District
Various Urban Renewal Agencies
Private property owners and attorneys

ANCH
AIRPORT
HRINGS

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF PUBLIC WORKS

OFFICE OF THE COMMISSIONER / POUCH Z–JUNEAU 99801

File

April 4, 1975

Receipt 3:55 pm
4/4/75

The Honorable Bob Bradley
House of Representatives
Chairman, Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Bradley:

In accordance with your April 3, 1975, request, enclosed under separate cover are seven copies of all known information pertaining to the Anchorage International Airport Satellite Building Project, with the exception of the transcripts of the meetings held March 6 with air carriers.

Sincerely,

Donald Harris
Commissioner

Enclosures

Airport Hearing

Telegrams sent to:

Jack Peck, Director Division of Aviation
4510 International Airport Road, Anchorage

Richard Jensen, Airport Manager
Anchorage International Airport, Anchorage

Anchorage Chamber of Commerce

Anchorage Airport Affairs Committee
Anchorage International Airport, Anchorage

Heinz Hoonan, Division of Aviation
4510 International Airport Road, Anchorage

Letters sent to:

Commissioner Donald Harris, Dept. of Public Works

Commissioner Sterling Gallagher, Dept. of Revenue

More telegrams sent to:

Air France
British Airways
Japan Airlines
KLM Royal Dutch Airlines - Anchorage International Airport
Lufthansa German Airlines
Sabena Belgian World Airlines

Northwest Design
839 W Northern Lights Blvd., Anchorage

Eric Wohlforth
645 G Street, Anchorage, Alaska

April 3, 1975

Commissioner Donald Harris
Department of Public Works
Pouch Z
Juneau, Alaska 99811

Dear Commissioner Harris:

Pursuant to the Speaker of the House's charge that the House Commerce Committee investigate the circumstances surrounding the intended cancellation of the Anchorage Airport International Air Carriers Construction Project, I am formally requesting copies of all material related to the project. Let me clarify the above.

1. All means all, not part.

2. Material means written, voice recorded, and arithmetical calculations.

3. Copies means reproductions. (Seven sets of copies please, for the seven members on the committee).

I respectfully request that the above be fully and factually presented to the office of the House Commerce Committee no later than the close of business April 4, 1975. This deadline is required to allow reasonable review time for committee members prior to commencement of formal hearings on the subject.

Your cooperation in this matter will be appreciated.

Very truly yours,

Bob Bradley

BB/cc

RCA

Alaska Communications Telegram

Overnight or Letter Telegram ☐ Personal Opinion Message ☐ Press ☐ (Full Rate unless marked.) This telegram will be transmitted by cable, radio, or satellite, and is accepted subject to the tariff rates, rules, and regulations of RCA Alaska Communications, Inc. on file with the FCC and the Alaska PUC. Liability is limited to $500 except for repeated or specially valued service which is available upon request.

Sender's Name and Address: [illegible] Pouch V Juneau AK

Account Number: 465-3824

To

[illegible]

[illegible]

[illegible]

RCA

Alaska Communications Telegram

NL 5C

Overnight or Letter Telegram ☐ Personal Opinion Message ☐ Press ☐ (Full Rate unless marked.) This telegram will be transmitted by cable, radio, or satellite, and is accepted subject to the tariff rates, rules, and regulations of RCA Alaska Communications, Inc. on file with the FCC and the Alaska PUC. Liability is limited to $500 except for repeated or specially valued service which is available upon request.

Sender's Name and Address HOUSE COMMERCE COMMITTEE

Account Number 645-3524

To Air France
British Airways
Japan Airlines
KLM Royal Dutch Airlines
Lufthansa German Airlines
Sabena Belgian World Airlines

Anchorage International Airport

Northwest Orient
c/o Northern Lights Blvd Anchorage

Pan American
645 C ST Anchorage

The House Commerce Committee is holding hearing Monday April 7th at 8:00 AM in Civic Auditorium of Anchorage Airport Terminal. Please attend

Bob Dudley, Chairman

BOB BRADLEY

state house

CHAIRMAN, COMMERCE COMMITTEE
POUCH V
JUNEAU, ALASKA 99811
465-3824

VICE CHAIRMAN, JUDICIARY
601 N. BRAGAW
ANCHORAGE, ALASKA 99504
272-0275

April 2, 1975

Commissioner Gallagher
Dept. of Revenue
Juneau, Alaska

Dear Commissioner Gallagher,

The House Commerce Committee has been charged with investigating the cancellation of construction of the airport terminal in Anchorage.

The committee will be holding hearings begining April 7 at 8:00 a.m. You are requested to attend.

Sincerely,

B. Bradley

Bob Bradley

BB/mr

BOB BRADLEY

state house

CHAIRMAN, COMMERCE COMMITTEE
POUCH V
JUNEAU, ALASKA 99811
465-3824

VICE CHAIRMAN, JUDICIARY
601 N. BRAGAW
ANCHORAGE, ALASKA 99504
272-0275

April 2, 1975

Commissioner Harris
Dept. of Public Works
Juneau, Alaska

Dear Commissioner Harris,

The House Commerce Committee has been charged with investigating the cancellation of construction of the airport terminal in Anchorage.

The committee will be holding hearings beginning April 7 at 8:00 a.m. You are requested to attend.

Sincerely,

B Bradley

Bob Bradley

BB/mr

HB 311 J. RHODE Airport file

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF PUBLIC WORKS

OFFICE OF THE COMMISSIONER / POUCH Z--JUNEAU 99801

March 27, 1975

The Honorable Hugh Malone
Chairman, House Finance Committee
State Capital, Room 409
Pouch WF
Juneau, Alaska 99811

Dear Representative Malone:

In reply to your request of March 16, 1975, the following information is submitted relative to your questions regarding the proposed recall of the International Airport Revenue Bonds, Series "E":

1. The situation is caused by the reluctance of the air carriers to support construction of a new international satellite building at the Anchorage International Airport. The air carriers had no objection when the facility was planned, but the operational losses now being suffered by all international carriers will not allow them to pay for increases in airport fees to pay for the construction. Enclosed are copies of letters from eight air carriers requesting cancellation of the bond issue and postponement of the construction.

   Expenses to date for administrative and engineering costs will be recovered by increasing the fuel concession fees to obtain an annual revenue increase of $300,000 which will repay all costs in a two year period.

   Demands for capital improvement projects in the future from the Revenue Funds can be taken care of by direct appropriations from the fund. Additional airport fees will be increased to build up the fund for this purpose.

2. Regarding a revised CIP program, the original program was cut from $47,786,200 to $11,987,900 and will be accomplished with in-house funds. Increased airport fees is expected to generate additional revenue to support the revised program.

3. Enclosed is a copy of the revised revenue estimates thru FY 1980 together with footnotes which reflect the changes in fees and the benefits therefrom.

4. The amount of bonds to be recalled amounts to $10,600,000 which were issued under the Series "E" bond sale held January 14, 1975.

5. The legality of this recall transaction is covered by an opinion from the Attorney General and is based on advice of bond counsel (copies enclosed).

6. Necessary legislation to accomplish this action is contained in Senate Bill 311.

7. The legislation proposed in Senate Bill 311 will not be a drain on the General Fund as it is only a loan to be repaid from the bonds and the Revenue Fund.

Your consideration in passage of this bill will be appreciated.

Sincerely,

Donald Harris
Commissioner

Attachments: 3 copies correspondence

cc: Senator Bill Ray, Chairman,
Senate Finance Committee
w/3 copies of correspondence

H.B. 311 J. RHODE

MEMORANDUM State of Alaska

TO: Donald Harris
Commissioner
Dept. of Public Works

DATE: March 24, 1975

FILE NO:

TELEPHONE NO:

FROM: AVRUM M. GROSS
ATTORNEY GENERAL

SUBJECT: Pending Legislation concerning $10,600 State of Alaska International Airports Revenue Bonds Series E.

BY: Dickerson Regan
Assistant Attorney General

Transmitted to you is the opinion of Eric E. Wohlforth, the state's counsel on bond matters.

As you know, in this specialized field the state relies on interpretations of its bond counsel. Accordingly, Mr. Wohlforth's legal opinion is adopted as the opinion of this office.

DR:jw

LAW OFFICES
WOHLFORTH & FLINT
A PROFESSIONAL CORPORATION
645 G STREET
ANCHORAGE, ALASKA 99501

ERIC E. WOHLFORTH
ROBERT B. FLINT
TIMOTHY G. MIDDLETON

TELEPHONE
AREA CODE 907
274-2519
272-9489

March 21, 1975

RECEIVED
Department of Law
MAR 24 1975
AM 7 8 9 10 11 12 1 2 3 4 5 6 PM

Hon. Avrum M. Gross
Attorney General
Department of Law
Pouch K
Juneau, Alaska 99801

Re: Pending Legislation Concerning $10,600,000
State of Alaska International Airports Revenue
Bonds, Series E

Dear Attorney General:

You have requested our opinion as to the legal effect of action which may be taken pursuant to propcsed legislation drafted by me and approved by C. Richard Walker, a copy of which is attached hereto in the form submitted to your office.

Appropriate action taken pursuant to the draft legislation will, in our opinion, result in the legal conclusion that the Series E Bonds will be no longer outstanding. When said bonds are no longer outstanding the State Bond Committee may amend the provisions of Resolution No. 74-6 relating to the "Project E Account" in the Construction Fund and may cause amounts in the Project E Account to be used to repay the loan from the General Fund referred to in the legislation. The loan from the General Fund authorized by the legislation is necessary to provide funds for investment in direct United States Government obligations and guaranteed United States Government obligations in amounts and maturing at times sufficient to pay principal and interest on the Series E Bonds until the first date they can be redeemed by the State without a redemption premium. When the United States Government obligations are purchased and trusteed for the benefit of the Series E Bonds, and other necessary procedural steps are taken, the Series E Bonds will in legal effect not be outstanding under the general bond resolution.

This procedure will provide, in essence, for replacement of the pledge of Revenues which now secures the Series E Bonds with a trusteed deposit of government bonds in amounts necessary to pay principal and interest on the Series E Bonds.

As you know, Section 3.06 of Resolution No. 68-4 of the State Bond Committee adopted April 11, 1968, which is the General Bond Resolution governing the terms of all International Airports Revenue Bonds, provides for the procedure outlined in the draft legislation and explained above to be accomplished, however, with an issue of refunding bonds. Pursuant to Section 3.06 the State may issue bonds which will provide cash sufficient to purchase direct United States Government obligations or guaranteed United States Government obligations "...in such amounts and maturing at such times that the proceeds of said obligations received upon their respective maturities and interest payment dates will provide funds sufficient to pay the principal, premium, if any, and interest to maturity, or to the redemption date, as the case may be, with respect to all bonds to be refunded..." After certain further procedural requirements under Section 3.06 are complied with, the legal result is that the series of bonds being refunded are deemed no longer outstanding.

The draft bill provides for the same result without the issuance of refunding bonds. Existing bond market conditions would make an issue of refunding bonds extremely expensive for the State. Although we are not following the provisions of Section 3.06 in that we are not issuing refunding bonds, in our opinion, the legal result is nevertheless the same as if we did issue refunding bonds for the above purpose pursuant to Section 3.06. General principles of law reflected in Section 3.06 support the legal conclusion that when United States Government direct or guaranteed obligations in amounts and maturing at times specified by Section 3.06 are trusteed for the benefit of existing bondholders, their rights under the general bond resolution are no longer in effect, notwithstanding that the procedure is not accomplished through an issue of refunding bonds.

In conclusion, in our opinion when the government bonds described in Section 3.06 are purchased and placed in a proper trust for the benefit of existing Series E bond-

holders, moneys in the Construction Fund may be transferred out for other purposes as specified in the proposed legislation, the covenant to build "Project E" (principally the proposed Anchorage Terminal Building) will no longer be in effect, and the Series E Bonds, since they are no longer outstanding, will not thereafter be counted as Bonds for the purposes of the rate covenant in Section 6.12 of Resolution No. 68-4.

Very truly yours,

WOHLFORTH & FLINT

By Eric E. Wohlforth
Eric E. Wohlforth

EEW/am

cc: C. Richard Walker, Esq.
Commissioner Sterling Gallagher

STATEMENT BY RICHARD S. FULLERTON
CONSULTANT TO COMMISSIONER OF PUBLIC WORKS
RELATIVE TO INTERNATIONAL AIRPORTS

A study of the Anchorage and Fairbanks International Airports was undertaken on January 7, 1975, to provide data relative to airport operations through Fiscal Year 1980. The study took into consideration capital improvement projects, revenue requirements and cost saving measures to be considered over the five and one half year period for which projections were made.

Consultations with both foreign and domestic air carriers along with the major concession operator - Duty Free - provided the background for capital improvement projects and revenue requirements projected into the future to provide adequate facilities at a competitive cost to meet public needs over the period.

Approximately seventy percent of total airport revenue is international in nature. Uncertainty over world economic conditions and energy problems has caused this sector of the industry to scale back future facility growth requirements considerably in the interests of minimizing costs during these times. They present substantial opposition to present construction of the new international satellite at Anchorage on these very grounds. It appears that new facilities, however desirable from the accommodation standpoint, are not acceptable to the international carriers at this time to the extent that they necessitate increases in charges to the carrier for the facility.

Domestic operations over the next two years project substantial growth related primarily to pipeline activity. They feel facilities are adequate for their requirements, which will peak and then either level off or decline somewhat in 1977.

It is the concensus of both domestic and international carriers that with the exception of the new North/South Runway at Anchorage, their operations can and for cost reasons should be conducted out of present facilities at both international airports for the foreseeable future.

Following several hearings between the Division of Aviation and the Anchorage Airport Affairs Committee (representing the carriers and major tenants at the airport), this premise was accepted and future plans and revenue projections were developed around the assumption.

In accordance with the above, C.I.P. in the amount of $47,786,200.00 to be funded via revenue bonds were scaled back to $11,987,900.00 with these remaining projects to be accomplished with in-house funds. Schedule A is attached listing these remaining projects as well as those deleted. It was agreed by the carriers and the Division of Aviation that this reduced C.I.P. would maintain the integrity of both international airports for the next two years at least and very possibly for the five and one half year period under study.

Several considerations entered into the establishment of revenue fee increases required to support the C.I.P. contemplated. Foremost, it was assumed that the mission of the international airports in serving public need was to maintain fiscal integrity while offering a competitive service at reasonable rates. A rate increase (Schedule B) covering three areas along with a cash flow analysis (Schedule C) was prepared to provide minimum but adequate revenue requirements. In doing this, debt earnings ratio is maintained throughout the period at a level which would permit further bond offerings should they be required and free funds are established at a level which can provide additional C.I.P. in the amount of $5,000,000.00 in-house at any time without going to bonded financing. Thus, significant terminal expansion, if required in the near future, could take place without addition to debt or increased rates, and particularly if A.D.A.P. funds should become available for such projects, major expansion is possible under the same conditions.

It should be noted that C.I.P. expansion via the bonded debt route, because of the covenants relative to debt earnings ratios, can only result in the need for drastically increased rates and a corresponding weakening of the competitive position of our international airports as a result of such action.

Rate increases projected in Schedule B would provide additional revenues of approximately $1,000,000.00 per year in total. The bulk of this ($850,000.00) would result from a thirty point (.003¢) per gallon increase in fuel concession fees. This increase involves no additional collection cost and the burden 75% falls on the international carriers, who are primarily responsible for our need for increased revenues and the C.I.P. programs they are to be expended on.

Negotiations under this study have been completed with the Department of Highways to acquire title as of January 1, 1975, to all equipment involved in the Highway Working Capital Fund and to take over payment of employees associated with this equipment. This could result in substantial savings to the Division of Aviation through savings in direct operating costs as well as replacement cost due to better and longer equipment utilization. Schedule D is attached showing funds in the amount of $972,347.80 due from Highways in addition to the equipment as a result of replacement fund balances due less charges owed Highways. Terms of payment of this balance are to be resolved by agreement of the respective Commissioners.

Accounting procedures have been found weak particularly in the area of expenditures as they relate to funds budgeted for such purposes. Schedule E outlines a program via the C.P.A. firm of Main Lafrentz and Company to correct this weakness and provide the Division with current, complete, and continuous accounting data on a computerized accrual basis. Implementation of this program will cost approximately $150,000.00 to $200,000.00 and will take some fifteen months to become fully operational.

A review of I.B.M. printout data available from Juneau, but not presently utilized for accounting control purposes, indicates that accounting information required can be obtained through proper use of this data along with expenditure accrual information, which can be made available within the Division of Aviation. Such a program is preferable to the main Lafrentz approach in that it could provide comparable results with no duplication of effort or equipment.

Expansion to trunk and secondary airports should be the ultimate goal of this project, since the need is greater there than with the internationals.

Several additional conclusions not covered above have evolved as a result of the study.

1. It is of paramount importance that the Division of Aviation in all future rate, bonding or C.I.P. matters work closely with the Airport Affairs Committee to assure that such programs have current support of carriers and other tenants expected to provide increased revenues required.

2. Airport lands should be developed under an adequate, fair and just leasing policy. The policy should provide that direct aviation activities (air carriers and related support facilities) who are already supporting the airport with other fees, will be charged reasonable rates. On the other hand, only lands deemed as not desirable for aviation use should be available to industrial or non-aviation related applicants, who should be charged a higher land rental rate comparative with commercial properties within the respective community. These combined rates will provide maximum revenues and utilization from airport lands with the minimum cost burden being placed on the carriers and ultimately the rate structure passed on to the public.

3. The need to hold airport fees in the interests of maintaining a competitive position, particularly with regard to the international carriers, has been covered above, however, the Greater Anchorage Area Borough taxes personal property on the airport without regard to the impact either directly or indirectly on preservation of a competitive rate structure which is the foundation of our present broad revenue base.

   The contribution of the Borough to the airport as a result of these taxes is limited at best and ever escalating Borough rates rob the airport of a revenue source that might better serve public need if reflected in the form of lower costs to the carriers at the airport. Certainly there can be little justification for G.A.A.B. having exclusive property tax authority on aircraft fleets operating to numerous remote areas of the State, many of which could claim equal justification with G.A.A.B. for tax authority.

4. Security costs represent some forty percent of personnel charges at the international airports. Cost savings measures of significance have a real potential in this area. Fairbanks for example has sixty three security people out of a total employment of ninety three. Estimates are that as many as twenty three to twenty eight of these could be eliminated with reorganization of security functions at that plant. In Anchorage security contains seventy six employees out of a total of one hundred and ninety. At this plant, the best chance for reduction seems to be in facility redesign, with security operations in mind, and by delegation of certain gate functions to private operations under pay and direction of the carriers involved.

   Under F.A.A. jurisdiction security tends to be pushed beyond the point of diminishing returns. Much amounts to nothing more than going through the motions without making any serious contribution to real security, however, significant costs are involved. This is particularly true of requests being made for bush area security, but it if unfortunately not limited to such areas. Both the air carriers and the Division should take a strong stand with the F.A.A. relative to this matter.

5. A fiscal section should be established within the present Division of Aviation management framework, direct line of responsibility and accountability to the Director. This section will be primarily responsible for providing adequate up to date financial information to Anchorage and Fairbanks International Airports. Inclusive of expenditure and revenue analysis, on a monthly accrual basis.

Date: March 17, 1975

SCHEDULE "A"

SUMMARY SHEET

CAPITAL IMPROVEMENT PROGRAM

F.Y. 1975 - 1980

(Contemplated changes)

PRIORITY	CHANGES
76-1	Eliminate
76-3	Eliminate
76-8	Eliminate
76-12	Reduce by $252,000
77-3	Eliminate
77-4	Eliminate
77-5	Hold for re-evaluation
77-6	Hold for re-evaluation
77-11	Hold for re-evaluation
77-12	Hold for re-evaluation
77-14	Hold for re-evaluation
78-2	Hold for re-evaluation
78-6	Eliminate
78-7	Department upon N/S Runway
78-10	Hold for re-evaluation
79-1	Hold for re-evaluation
79-2	Hold for re-evaluation
79-3	Hold for re-evaluation
80-1	Hold for re-evaluation
80-3	Eliminate
80-4	Hold for re-evaluation
80-5	Hold for re-evaluation
80-6	Hold for re-evaluation
80-8	Eliminate

April 3, 1975

Commissioner Donald Harris
Department of Public Works
Pouch Z
Juneau, Alaska 99811

Dear Commissioner Harris:

Pursuant to the Speaker of the House's charge that the House Commerce Committee investigate the circumstances surrounding the intended cancellation of the Anchorage Airport International Air Carriers Construction Project, I am formally requesting copies of all material related to the project. Let me clarify the above.

1. All means all, not part.

2. Material means written, voice recorded, and arithmetical calculations.

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Your cooperation in this matter will be appreciated.

Very truly yours,

Bob Bradley

BB/cc

file
AH

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PMS WESTERN AIRLINES
ANCHORAGE INTERNATIONAL AIRPORT
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06030 JUNEAU ALASKA 20 04-04 1132A PDT
PMS NORTHWEST ORIENT AIRLINES
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ANCHORAGE INTERNATIONAL AIRPORT
ANCH
HOUSE COMMERCE COMMITTEE WILL HOLD HEARING ON CANCELLATION
OF TERMINAL CONSTRUCTION APRIL 7TH, MONDAY 8:00 A.M.
PLEASE ATTEND IF POSSIBLE.
BOB BRADLEY CHAIRMAN

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HOUSE COMMERCE COMMITTEE

Hearing on Anchorage Airport

Bradley- I'll start off with a few opening remarks. The House Commerce Committee has been requested by the Speaker of the House to investigate the proposed cancellation of construction of additional facilities at the Anchorage International Airport. In our capacity we have made the attempt to include all the interested parties and have requested all relevant data and have tried to review such. I think at this time we will ask Commissioner Harris and individuals who are down here from the Division of Aviation to start off this morning to give us a historical overview and hopefully ther'll be members from the bond committee that we can request testimony and we'll make sure industry has the chance to say all they want to, and anyone else. Commissioner, can you lead off and tell us what we're here for.

Commissioner Harris- Mr. Chairman and Committee member, when first coming into the office of Commissioner, on about the 7th of December the Director of Aviation indicated to me that the plans were ready to go forth on the construction of an international satellite building at Anchorage International Airport, and that if we did not proceed we would lose the, or if we did not pick up a building permit by the first of February we would lose much of the value of the design because of a change of the building code in the Anchorage Borough, and based on other information I had that they had gone to bid with this project previously, sue to a feeling of uncertainty in the bond market, I consulted with the new people in this administration. They advised that it should probably go to bond on the bond market and sell the bonds, and so we proceeded on that basis and advertized the job for bids. The bond committee went on the market for the sale of the bonds, the sale of the bonds came in at about 7.5 percent, subsequently we opened the bids on the Anchorage terminal and during this interval of time, I should say that we had begun a review of a number of things in regard to international airports. In this review we contacted all of the air carriers and asked them to have meetings with us in regard to the proposed Capital Improvement Program for upcoming years. We began to get reactions from the air carriers to the proposed rates on the statement put out for the issuance of revenue bonds. We proceeded on and opened the bids for construction of that facility, the bids came in at a quite favorable rate but in the first open meeting that we had with the air carriers I might say

all the users of the airport other than Japan Airlines and Duty-free Shoppers indicated that they didn't want to go into a new rate structure at this time because of the economic situation they were looking at the cost of factors they'd been experiencing over the past year and a half namely the prime thing was the quadrupling of fuel costs in approximately that period of time. The international air carriers were particularly distressed and it's my understanding they have lost, those carriers that use Anchorage International Airport, and their overall operations have lost, between half a billion and a billion dollars in the previous years time and that along with the balance of payments that their national interests were experiencing it was a very decisive factor in their determination to reduce costs in any way that they could and they all asked that we not proceed with this facility at this time, they said that they'd be willing to work together in rearranging space in the existing facilities of the airport until such time as they had the economic factors within their own business operation better adjusted so that they could take on some rate increases. That's essentially what they said, they all expressed a desire for having such a facility I might say, they never, I haven't seen any indication that they didn't think a facility such as that was desirable from any of them. But everyone is looking at increasing cost factors to a magnitude that they seem to have a hard time adjusting rates to keep ahead of the costs. In another meeting on the 16th of March, Japan Airlines, who originally ...

Bradley- This first meeting you referred to as the first open meeting, was this the latter part of February?

Harris- Yes, it was in February. At the March meeting there were the property people from nearly every carrier that uses Anchorage International Airport and it is without exception now this time. Japan Airlines had reversed their position, originally they had continued to favor the building of such a facility. They came in on the March 6th meeting and had reversed their position. They'd indicated from the outset that they had wanted the use of four gates, approximately half of that facility, and when they had come in and reversed their position, we then had only the duty-free shoppers that indicated they would still like the go ahead with construction. Their prime reason was that they wanted more space for their marketing area in connection with the airline business. At that point in time I decided to deal with their request and other factors that were indicated, as a result of this look is a view that we obtained from the situation that we should probably hold off construction of this facility to a future time, revise our Capital Improvement Program for Anchorage and Fairbanks International Airports we feel

till such time as the economics for the user group will change. One of the major considerations in my mind is the fact that Japan Airlines had in the February meeting said that they would have 80 flights per week to Anchorage. In the March meeting they came and sid no, we're only going to have 70 flights per week to Anchorage, they knocked 10 flights in that interval of time. They also indicated in the previous meeting that they planned to use Vancouver, B.C. as a diversion point rather than Anchorage. Well, 10 flights a week means between $8,500 and $10,000 per week in earnings to the Anchorage International Airport. This is a very decisive indication that the airlines, with equipment available to them at this time, have new options available to them in their routing. They can go directly to the West Coast. This of course is another consideration of what we should do with the airport at this time. We can see if there are other carriers that choose to excercise that option, that as the earnings for the airport drop off the international carriers, the domestic carriers are going to have to experience increased rates to pay for the existing outstanding bonds, and this I considered bery undesireable and chose not to do. I choose at this time not to be faced with that situation, I would like to keep the Anchorage International Airport at this time in the most competitive position possible. I find that by raising the rates only to cover the increased costs that we've experienced is the best posture we can maintain. That's essentially what I have Mr. Chairman. I'll answer any questions you may have.

Bradley- Commissioner, are you aware that industry in the past several years have been meeting in open meetings regarding this construction?

Harris- Yes, I certainly am.

Bradley- Even to the tune of forty or fifty people, which is a sizable imput?

Harris- Yes, that's true, there were at least 3 previous meetings that I am aware of, as well as technical groups that really weren't recorded, they were meeting with representatives of various groups giving their song and dance trying to give aid in figuring the building that came out in the design.

Bradley- Are you aware from any of these meetings whether industry was stating from a historic note several years ago that in fact they didn't want this built.

Harris- There were some of the industry people who indicated

from the outset that they didn't desire the building. At the time we made the decision to proceed into it, I personally wasn't aware of that fact, I was only made aware of it at a late time, I became aware of all of the meetings that had take place. At the time I made the decision to go into this, I wasn't aware of all the factors involved.

Bradley- Commissioner, we talked about re-routing, because of new aircrafts that can overfly Anchorage and touch down on the West Coast information shows you can go as far as Los Angelos. With that in mind might they just not do this anyway? Whether we build this facility anyway? Historically, they've stopped in Anchorage for fuel. We want to remember our rates haven't been increased since '61,is that correct?

Harris- No, it's not, there were rate changes subsequent to that, there were rate changes at the time the existing terminal was built.

Bradley- Do you know the amount of increases vis-a-vis 1961?

Harris- No, I do not.

Bradley- Do you think that whether we build this building or not that Anchorage International Airport is somewhat in jeopardy of flyover?

Harris- I think that the airlines will be looking at anything they can do to reduce their costs and if they have that option without the penalty of loss of load being too high, I think that they'll take the shortest route and go directly on to the West Coast. They may excercise that option. I think that's essentially what JAL told us when they told us they were reducing their flights from 70 to 80, they were excercising that kind of option.

Bradley- Any questions of the committee? Mr. Wallis.

Wallis- Commissioner, what was the engineer's estimate on the project?

Harris- The estimate on the project originally came in at about 11 million dollars, the estimate we had when we went into the project, the bid was 8.17.

Wallis- What was the high bis?

Harris- I think the high bid was in the neighborhood of 11.3 or 11.4.

Wallis- How many bidders bid on the project?

Harris- Eight;

Wallis- So there was a range of 3 million dollars with 8 bidders. Do you see any possibilities of a contractor suit?

Harris- No, I don't feel that there will be. We have no indication at all that there will be.

Wallis- Who was the low bidder?

Harris- Lease Company.

Wallis- Are they local?

Harris- They have an office in Anchorage, their Home office is in Seattle.

Wallis- Do you have an estimate on what the engineering design cost was?

Harris- The design costs were in the neighborhood of $580,000.

Wallis- Do you know how much it cost to put the whole package together, what did your bid cost?

Harris- Well, we haven't any figures broken out on the in-house cost or the amount of imput from the Division of Aviation, the total costs involved it appears are between 775,000 & 800,000 dollars, that's for the costs of design and all of the costs involved in the issuance of the sale of the bonds.

Wallis- Have you been in contact with the Lease Company?

Harris- Yes, the Division of Buildings has been in contact with the Lease Company.

Wallis- And what are their feelings on this?

Harris- The Lease Compnay, we've notified them that the bids were going to be rejected, all bids would be rejected.

Wallis- Will there be any attempt to reimburse them for their bid costs etc.?

Harris- They haven't asked for that, originally we had thought to hold them to their bid for an additional 30 days and they came back and responded that they would hold to their bid a week past the original schedule without any additional costs to the state and on the cost that day of that indicated extension the Lease Company , we, made the dexision to reject bids and we so notified them.

Bradley- Commissioner, Howard Lease, though it's a Seattle firm, is located in South Muldoon in Anchorage, is that right?

Harris- Yes, they have a long working experience in the Anchorage area and in Alaska.

Bradley- What I'm getting at is they are located in Anchorage, have a real sizable operation there, in fact they've been doing some real big projects for the U of A, is that correct? Yes, that's probably their biggest job going on in town or is it?

Harris- I can't tell you, I know that they did the original Penneys Garage and I know that they've been there since that time and done a great amount of work in Anchorage.

Bradley- Commissioner, I see Heinz nodding his head that I guess the U of A projects are their biggest ones. The reason for bringing this up is it appears they've had substantial economic intercours with the state, and Mr. Wallis seems to indicate that it's sort of I guess standard operating procedure to try and get something out of this. It might be sort of unusual if they didn't sort of growl and say, well, we're gonna contact our attorney and we'll see you in court, because we're going to lose X amount of dollars over this and of course you guys asked us for the bid, then when we signed all the papers you come back and say we can't make this profit that we had plugged in. There's been no real part on the state to say look, be understanding with us at this point because in fact you've been involved in a number of Capital Improvement Programs with us in the past, and in fact we've liked your style, so why not let us off the hook. You know what I'm getting at?

Harris- Yes, there's been no attempt on the part of the Department of Public Works to approach the contractor in that manner, not at all, nothing except the notification. First we asked them to extend the award time period, they said well they came back and said how long do you want to extend it and we said ideally 30 days. They said if you want thirty days then we think we should bid, well you should pay for our bidding costs at least if you do decide to reject what , well you should at least be paying for our bidding costs, and perhaps some inflation factor for that period of time. The Director of the Division of Buildings in the course of his communication asked them all if they would consider it, a lesser period and they said well they would consider allowing us an additional week without payint any cost considerations involved. That as I previously told you is the option we chose.

Bradley- Thank you Commissioner, Mr. Wallis.

Wallis- What were the domestic carriers versus the international carriers, what's their difference in opinion?

Harris- The fees levied are the same rate for all carriers, the fee schedule that was written up for the official statement for the sale of the bonds, the schedule that was proposed by the Division of Aviation would have put about 70% of the burden of the increase in rates upon the domestic carriers, and of course this wasn't favored by the domestic carriers. Subsequent to that we went in and bid some work in relation to rates and soon we'd come up with proposed changes in the method of rates that we indicated we would imposed, and we had planned to impose a rate schedule that would have effectively increased the rates on fuel flowage which would have had the effect to put in approximately 67% of the rate increase on the international carriers.

Wallis- Under the new rate we have the domestic carriers picking up 70% of the fees, what is it now?

Harris- At the present time I think I'd refer to Heinz Noonan on that, I don't have that in mind Mr. Wallis.

Noonan- You mean in terms of the total picture?

Wallis- Yes, we have under the new rate increase where the domestic carriers would pick up 70% of the fees and the international carriers 30%. What was it at the old rate or existing rate?

Noonan- At the present or existing rate now? We levy at 3/10 of a cent fuel increase and it's effective April first, and again the burden of that 3/10 of a cent, 62/2% falls on the foreign carriers, 11.8 falls on the U.S. international carriers and 26% falls on the domestic air carriers. If you shift the burden and increase the landing fee, it has the exact opposite effect. The heavy burden of 65% would fall on the domestic carriers and 24% on the foreign carriers and 11% on the U.S. international carriers.

Wallis- Are all the internationls using bonded fuel?

Noonan- The way the fuel prices are at the present time there really isn't much difference of costs.

Bradley- Commissioner, you have currently under your employ a guy by the name of Peck, Jack Peck. What is he, with the Division of Aviation?

Harris- Director of the Division of Aviation, yes.

Bradley- Not to pose a leading question, but he's a knowledgable guy isn't he?

Harris- Well, Jack Peck has been associated with the airline industry in Alaska for 39 years, he was the International Airport manager for a period of time before he went into the position he now holds.

Bradley- The reason why I'm asking this is, in a conversation he had on February 10, 1975 he says there hasn't been any landing fee increases for 15 or 17 years.

Harris- I think that on landing fee increases that might be true but with that there was imposed a 2¢ fuel flowage fee and the time the time the new satellite building was built. That could be true in the case of the landing fee.

Bradley- This landing fee, is that the biggest fee that the airlines,

Noonan- fuel fees, fuel flowage fees

Bradley- because of volume?

Noonan- Yes sir.

Bradley- And then number two would be the landing fees?

Noonan- That's right, then woould come the concession fees and terminal building rental fees.

Bradley- So it's only because the uniqueness of the oil crisis that it's an international crisis that the fuel flowage fee has gotten really out of hand with fuel gone up three times.

Harris- I think it's four

Bradley-Then four, really it's increased price to the airlines. Is there any more questions, Mr. Urion.

Urion- Don, when was this project first conceived of?

Harris- Approximately three years ago discussions were begun with the air carriers with the Division of Aviation in regard to the planning of such a facility. It could have been something going on previously to that that I'm not aware of.

urion- When was it approved or bond issues approved to go ahead with the project?

Harris- It was approved in January of this year to proceed with the issuance of bonds and to put the project up to bid.

Urion- You You had the enginnering done prior to this? You had planned for something?

Harris- Yes

Urion- When was the engineering done?

Harris- I'm not sure of that, Heinz are you?

Noonan- The engineering was done about roughly 6 to 9 months previous to that done by Northwest Architects and Associates and there was a previous study done by the Division of aviation before it was turned over to the engineering design firm.

Urion- During that or sometime during that time period, or let me ask the question, were the air carriers always opposed to the project?

Noonan- Some of them did, I beleive that some of the carriers had never favored the project, two specific carriers there were Flying Tigers and Northwest Orient Airlines , they are both domestic carriers and international carriers.

Urion- Those two always opposed it, the others didn't? What made them change their minds? Evidently you had come up with, your engineering costs had, were estimated as 11 million, the bid was 8.7. The bonds sold for 7.5 and you probably estimated somewhat lower, but your costs weren't even in the ball park.

Harris- The square foot cost on that was 66 dollars per square foot, which we didn't feel was out of line, in these times for that construction.

Urion - But you knew fairly well in advance or you had a good idea probably well in advance as to how much the project was going to cost and evidently you told the air carriers weren't made aware of this.

Harris - I've been told that the air carriers that it was indicated to the air carriers down through the years there would be little or no increase in rates duing the building, I don't find anything in writing that indicates so but I've been told that from a variecy of sources. There is one thing that I might say in this regard and that is that the international airport is along with everything else has suffered considerably in the way of cost increases, the operation and maintenance of the airports, and we are looking at the requirement for 800 htousand dollars in rate increases just to pay for the increased cost of keeping the bond coverage required under the previous issues. But we had proposed to raise the rates if we were to og into theis design to bring in some 2.4 million to cover the increased costs the bond coverage required for the mext four years priod.

Urion- When was this 11 million dollar engineering estimate on the project?

Harris - Well, I beleinve that ti was arrived at the time the plan was finalized for the building.

Urion - When would that have been?

Noonan - Approximately in the latter part of December, there was one estimate done in October, revised in November, and finalized in December.

Urion - What was the October estimate?

Noonan - It was the, there were some small changes I think, it was around 10.8 and the final one was 11.1. It was just escalation and reflected field prices and escalation and some other areas had a heavy impact on the building. We wanted to have a pretty current estimate.

Urion - Don, at no time do you know of did you predecessor indicate to the carriers that ther'd be an increase necessary to cover cost of this thing?

Harris - I'm not aware of it, i don't find any indication of it, in any of the hearings that were held. I'm told that the, it was indicated the carriers down through the planning from the inception of this program it was indicated the carriers that they wouldn't have any rate increases of any magnitude for the cost of such a program.

Noonan - There is a letter available from JAL thanking the division of Aviation that there would be no increase in landing fees and that was beought up in some other previous meeting. It's the only record I can find where JAL did respond.

Urion - When did JAL say they were going to have 80 flights per week and then they changed it to 70?

Harris - At the February 10th meeting they indicated to us that they planned to have 80 flights per week through Anchorage this summer and they said we have 8 to 10 flights that are optional. I believe they were charter flights, and they had discression in how they oruted those flights, so he said we can guarantee we require this stricity verbal, we can guarantee 80 flights per week this summer, On the March 6th meeting they indicated they were going to be having 70 flights a week through Anchorage.

Urion - How manyare they having presently? How many flights a week?

Noonan- They're drolpping off at just, just before I came up here yesterday I was told by the airport manager Mr. Jensen that apparently they are dropping some addistional flights to lower 70 and are diverting them to Vancouver, and that along with JAL there are four other international air carriers going right to Vancouver at the present time and I asked him

for the specific airlines but he said he would wire me this morning. But Vancouver is in the process of expanding their airport tremendously and I talked with the airport manager there in Vancouver and he, they're right now in the process of building between a 15 and 10 million dollar brand new terminal and he made the mention that they are soliciting air carriers travelling thorugh Anchorage International Airport to divert to Vancouver, and the rates that are ver competitive and I've got the landing fees a little higher accouring to international carriers but for domestic carriers they only have a 1¢ fuel flowage fee. Terminal fees are a little bit higher, no custom charges, it's a better airport, in most ways, it carries 5 million passengers a year and exonomy in terms of labor alone could save JAL quite a bit of money, and so it's, I don't know how aggressive but he said they were very aggresive , he said we need additional flights to get the terminal on the go. He gave me all of the rates and I made a comparison.

Harris - The one factor that we haven't brought up is that the airlines, they look at their total the way that they figure costs on an airport is what it costs primarily the way they figure the costs to board a passenger in the airport, all the costs involved in putting a passenger on board an airplane and even though our rates are quite competitive the other rates that are involved in opeerating in Anchorage are evidently such that it's a deciding factor in what these airlines that have an option choose to do.

Urion - What would happen if you went ahead with the project and didn't increase rates to the airlines, where would you be?

Harris - Well, we would have, by moving in all of the International flight operations to the new terminal facility, we would have emptied the approximately 55,000 square feet of existing space in the existing facilities, which in the short period of time any indications from the domestic carriers that they would have been pickinf up that space, so with the effect, what it would have been, we would have been maintaining and heating space that we had no earnings on, that we presently have earnings on. The earnings on that space at this time is in the range of 5 or 6 hundred thousand dollars a year.

Urion - Didn't they realize this before?

Harris - I can't tell you frankly, I don't know, whether they took this into consideration and I'm sure that it must have been taken into consideration. I'm not sure they were aware of the magnitude of it or perhaps with the rate projection, the rate of growth projection they were working with they thought that they would get people to pick up that space, in

the interval of construction of the new satellite, I think that this is one of the things we're looking at is whether we're gonna have those growth rates that were being, that that construction was predicted on.

Urion - OK, so if we've gone ahead of the project and we've emptied 55,000 square feet of the existing facility, what wouls it have done to our costs versus revenue? Whwere would we be?

Harris - I would refer you to Heinz on this, he's been involved in the work up on it.

Noonan - By shifting the operations you wouldn't accumulate any more, in other words, the revenues, you wouldn't have any more revenue, only 18% of the new ternimal building was revenue earning, in other words lease space, where in the other building at the present terminal we have 45% so as we estimated that to come out you know, if you rented the 18% of the entire building then I'd say in the 10 to 15 yaer amortization achedule it came out 31,000 square footage, you'd have to rent the building at at the present time we charge $8.25 in the old building so some adjustments were made in terms of a hook-up fee where the air carrier , if they, by us buying the jetways, a docking fee of half 15¢ per thousand pounds of the airplane and that would bring us up to $20 per square foot but that just to keep the building self-sustaining, we had otherwise with the increased losses in Fairbanks, we would have fallen below the minimum debt ceiling on our bonds within a one or two year period, but you wouldn't have gained any additional revenues. The only revenue that we've talked about that we could have gained is how much the duty-free shop is losing right now. You know because of crowded conditions, and split operations because if in the duty-free shop is the center of the concourse and then it has a split operration near where it sells the liquor now, and so many flights come in and its often very crowded. We've asked Mr. Lyons the president of the duty-free shop what the revenue and how much he loses and he said it's pretty hard to estimate, he said maybe another 5 or 6% that we can add in terms of revenue but that would be the only additional revenue componenet that you would be adding on to.

Urion - So that the only one who was really happy with the new proposal was the duty-free shop?

Noonan - The duty-free shop, which brings in approximately 1.3 million, no 1.5 million dollars a year considering Anchorage and Fairbanks. Fairbanks has only 23,000 dollars.

Bradley - Commissioner, I guess we don't have nay letters on file saying from the carriers, saying they were in favor of this at nay point? Right? I couldn't find any.

Harris - I'm not aware of any letters that were generated if they are in the files of Aviation, I'm certainly not aware of them.

Bradley - But of course they had meetings historically,

Harris - I'm certainly aware of those that you have reports on.

Bradley - Well, maybe industry when there's, well, does industry ever go on record as being for something that could increase costs to them, I mean obviously they weren't on record against it because it got locked in, we've got just tons of letters saying they didn't want it but I mean, I'm trying to, Was this a scheme by the Division of Avialtion to ge to build a big dinosaur out there, was the need there and then they said well sure we'll include you guts in and the industry sort of came because they figured well there's nothing better to do and we'll just go along and placate the Division of Avialtion and somewhat participate and I guess if it really looks like the State's gonna build this then we can say no, was there any sort of tacit approval?

Harris - I think that some of the carriers were looking forward to increased space, they evidently indicated so the projections that the airport that were made indicated that by 1978 there would be a demand for I think 8 additional gates, and that's what this design was based on. I think there was, back 3 years, indication that they should be planning for such a facility, to acomodate the traffic, essentially, the carriers have said in nearly every instance, the international carriers have said yes, we would like to have the facility, but the cost factor that we are experiencing, we don't want you to impose the rates at this time.

Bradley - So they were told, they were led to believe that in fact there wasn't going to be any increases based on the building.

Harris - I'm not prepared to say that they were told that there wouldn't be any increase but I think that they thought it would be a very small increase in cost.

Bradley - Was the building always going to be built through revenue bonds?

Harris - Yes.

Bradley - And of course revenue bonds, can you explain that for us, how that differs from obligation bonds?

Harris - Well revenue bonds are based on the earning capability of the facility that issues them and they are retired strictly out of the earnings of that facility whatever it might be.

Bradley - OK, in this case then was revenue bonds being sold for

the construction of a satellite building the only people you have who can pay it are the airlines, is that correct?

Harris - The users of the airport whatever they might be. There are some industrial users that are only marginally conected with the industry. There are a number of land leases to operators on the airports that aren't necessarily connected with the industry directly.

Bradley - Correct me if I'm wrong but this building was always going to be built by revenue bonds, and at least in this case the only people primarily to pay for those bonds were the air carriers and one might, the reasonable and prudent business manager might presume that in fact that that he was paying X amount here they were going to float a bond and build a building you know they're goona have to so that was changing the structure of payment. The reasonable man might presume that in fact rates, he's gonna have to pay it right in a reflective fashion so that the presumption should probably be the, uh, number one, industry was going to have to pay for that building and number two, because of the payments coming onto already existing payments that rates would, couln't very well stay where they were, they couldn't very well go down so they probably would have to go up. Is that unfair?

Harris - I don't think so under the normal conditions . I think that really what they were looking at in the case of this airport is that they were looking at increases use projections of a magnitude that evidently the people in Aviation thought that just the increased revenues, because of use, it would gain most of the revenue that was requared withoutthe increase in rate, the thing that I don't believe was taken into consideration was that the proper extent was in the increased cost to operate the airport, the FAA had come in with an ever increasing security program the cost of the magnitude of the, which is gratly impacted the cost picture of the airports, and in conjunction with that well, the personal service increases that have been experienced I don't beleive were contemplated at the time that the original planning got off the ground.

Bradley - Are the domestic airlines such as Wien, Western, the two in the south 48 and Alaska Airlines, what Delta, well I'm thinking about Continental now is tying in with Alaska Airlines from Texas and isn't it Braniff with Western or vice versa or something like that now those guys looking at an increase in business?

Harris - Well certainly there's been an considerable increase recently in domestic travel primarily due to the pipeline.

Bradley - Have you projected that at all in the next couple three or five years?

Noonan - Yes, one thing that I might add that in relation to the terminal satellite that the major user revenue source was supposed to be the duty-free shop, and it and the surrounding economics in building the new satellite was by putting the new duty-free shop, relocating it and making a better, larger one, giving it 6,000 square feet rather than having it on the 2,000 sqiare feet, right now you have that much more earning capability, and it to this effect, various increases were cranked in that made it very feasible to build the building. In my own observation I'be projected 10 to 15%, however, a predecessor who did a study generated around 30% and the latest if we were to go ahead with the building with Joe Lyons who is the president of the duty-free shop and Mr. Polaro who is the chairman of the Board, their increases right now are less than 10%. In other words they are experiencing in the dury-free shop area has been between 20 and 60% per annum, and it's juust leveling not only just leveling off but it's declined, the recent decline is that the Japanesse people cna't take as much money out of the country as they used to, the Japanese economy is in a very sort of a resecssionary state, plus the travelling situarion you know is in a very critical condition so they'be lowered their estimate consieerably and I have both of, they made an estimate that Feb. 10th meeting and March 6th meeting and again they estimated that they were a lot lower the last meeting.

Harris - I think that it's fair to say that the International Carriers would have liked to have had this building if the domestic carriers would have p8cked up the cost of it, the bulk of the cost. I think that what we'be been looking at is considerably increased cost for Alaskans in rates that they would experience in domestic carriers, there's no reason to beleive that they can pay those costs without passing them on. This in my mind is what is essential to the point in time to keep that airport most or those airports, both Anchorage and Fairbanks in the most competitive position possible. I think that between 80 and 90% of all of the air traffic in the state is generated from those airports and all the outlying areas and any increase in cost are just going to impose a burden on in the user, consume4r in every case. And if we reaise rates and discouraged international carriers well then of course we're going to have to go into increased rates structure for the domestic carriers in order to maintain coverage on exisitng bond issues there for theis time.

Wallis - With the international carriers are most othe carriers utilizint the international airport, are they the polar flights and the overseas flights? Do we have any idea what the difference in dlights would be if they landed in Anchorage versus landing in Vancouver?

Harris - I don't have the mileage.

Noonan - From what I'be gathered again from Mr. Jensen talding with people before I came here, approximately 2 to 2 I/2 hours for flight time and these are . .

Wallis - How much fuel per hour do they use? Roughly?

Northwest Orient Representative - What kind are you talking about?

Noonan - a 747

NW representative - I'd say about a thousand pounds.

Wallis - So with the extra cost in fuel they're willing to swallow that extra cost in fuel versus th e milege versus the increased landing fees.

Harris - I asume . . .

Wallis - and the increased cost in fees would be considerably less it would seem to me that perhaps this is a scare tactic.

Noonan - It would very well be and in talkin with Mr. Cotini from Air France he thought the same way but whether it is or whether it isn't it reamins to be seen. How much of their flights they're really diverting permanently.

Harris - On the other hand the other costs that are involbed or the diffence in costs that are involved with the two airports we haven't made an assesment of all the factors that are involved such as the cost of cresa to servic e aircraft, we have none of that information at hand, it could be or make a significant differnce with all of the factores involved it could make that airport looked upon much more favorably.

Wallis - What increased costs in crews would there be? Why would they have to increase their cres to take care of it?

Harris - Just the difference in cost of hiring wages in BC versus wages in Anchorage, all of the other factors involved.

Wallis - Juct to go beck to another topic Mr. Chairman, again on the contractor suit, has the Attorney General looked at this?

Harris - They'be looked at it but I don't believe they looked at it form the point of a suit from the contractor.

Wallis - With the new incresed rate structure if the building was gone ahead your domestic carriers would be picking up 70% of the costs.

MEMORANDUM

State of Alaska

DEPARTMENT OF PUBLIC WORKS

TO: Donald Harris, Commissioner
Department of Public Works

DATE: April 4, 1975

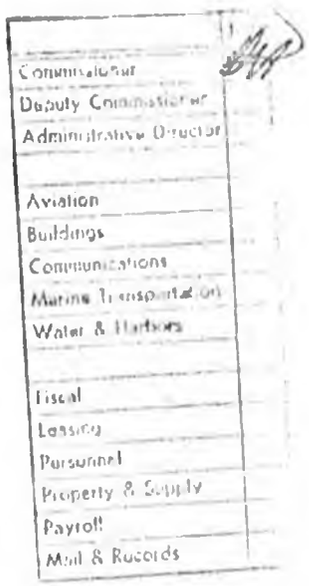
FILE NO: DB-13-0199

TELEPHONE NO:

FROM: William H. Race, P.E.
Director
Division of Buildings
Juneau

SUBJECT: Anchorage International Airport
Passenger Terminal - Satellite
Addition

We have consulted with the architects regarding the above project. It has been determined it would cost an additional $250,000 for the architects to redesign and make minor changes.



MEMORANDUM State of Alaska

TO: Emmitt L. Wilson
Chairman
Airport Revenue Bond Committee

DATE: November 22, 1974

FILE NO:

TELEPHONE NO:

FROM: Buel A Taggart
Commissioner
Department of Public Works

SUBJECT: Airport Revenue Bond Sale

This will confirm my verbal disapproval of the airport revenue bond sale slated for December 4, 1974. The reasons for the cancellation of this bond sale are as follows:

1. I was not satisfied as to the coverage that would occur in 1977 according to the difference between expenditures and revenues.

2. The figures have been juggled by too many people and I could not reconcile myself as to the actual coverage that would occur.

3. I feel that it is better to have meetings with all airlines and a specific rate increase agreed before any bonds are sold. These meetings will be held directly after the first of the year and, after this, new figures will be available.

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

;

06061 NL JUNEAU ALASKA 50 04-04 0425P PDT

PMS REP BOB BRADLEY CHAIRMAN HOUSE COMMERCE COMMITTEE

JUN

AS YOUR LEGISLATIVE ASSISTANT WAS ADVISED

I HAVE A CONFLICT AND CAN NOT ATTEND THE HEARING

SCHEDULED FOR 8AM MONDAY ON THE ANCHORAGE INTERNATIONAL

AIRPORT BILL. I WILL BE AVAILABLE AT MORE OR LESS YOUR

CONVENIENCE AFTER APRIL 15.

ERIC WOHLFORTH

TELEGRAM

ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

02100 NL ANCHORAGE ALASKA 149 04-04 0615P ADT

PMS REP BOB BRADLEY

JUN 03361

DEAR LEGISLATOR BOB

NEW INTERNATIONAL TERMINAL WOULD BE A IREMENDOUS ADDITION TO ANCHORAGE AND WOULD RELIEVE CROWDED CONDITIONS DURING PEAK PERIOD. HOWEVER DUE TO ECONOMIC SITUATIONIN THE WORLD TODAY THE AIRLINES CANNOT AT THIS TIME AFFORD THE INCREASE IN OPERATIONAL COSTS THE STRUCTURE WOULD ENTAIL. DOMINATE PRIORITY AT ANCHORAGE INTERNATIONAL IS THE ESTABLISHMENT OF A NORTH/SOUTH RUNWAY VITAL TO THE FUTURE OF THE AIRPORT AND CRUCIAL TO INCREASING TRAFFIC WHICH IN TURN PAVES THE WAY IN AFFORDING NEW GROUND FACILITIES. MODERN AIRCRAFT DESIGN WILL ALLOW OVER FLIGHTS OF ANCHORAGE IF WE GIVE THE INTERNATIONAL AIRLINES REASON OR CAUSE TO DO SO BY IGNORING RESPONSIBLE LANDING STRIP SAFETY CONCERNS OF PILOTS AND CREWS THAT HAVE REPEATELLY WARNED OF THE NEED FOR THIS ADDITIONAL RUNWAY. OUR CHAMBER IS IN UNANIMOUS AGREEMENT ON PRIONTY OF IMMEDIATE CONSTRUCTION OF A NORTH/SOUTH RUNWAY. WILL BE AVAILABLE MONDAY IN JUNEAU.

BILL BORLAND GREATER ANCHORAGE CHAMBER OF COMMERCE

TELEGRAM

ALASKA COMMUNICATIONS, INC
PHONE: 586-6440
JUNEAU, ALASKA 99801

02083 NL ANCHORAGE AK 50 04-04 213P ADT

R 4 PM 5 20

PMS REPRESENTATIVE BOB BRADLEY

0350

CHAIRMAN HOUSE COMMERCE COMMITTEE

JUN

REGRET UNABLE ATTEND COMMITTEE HEARINGS APRIL 7

LEO E GOFF/AIR FRANCE

HB

19

HB 19

Tape No.	Date
13	3/13

March 6, 1975

President
Alaska Telephone Association
500 W. International Airport Road
Anchorage, Alaska 99503

Dear Mr. President,

The House Commerce Committee will be holding hearings on HB 10 relating to telephone utilities on Thursday March 13 at 8 a.m. The hearing will be held in room 203 of the Assembly Building in Juneau. Testimony will be heard at this time.

Sincerely,

Bob Bradley

BB/mr

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

Integral Correspondence

RCA Alaska Communications

URGENT

Herb Cotten – Mgr Revenue Accounting
John Russel – Mgr Data Processing

To Ken Sprain
Bill Gooding

Location Juneau

Date March 12, 1975

From Andrew R. Sarisky

Location Anchorage

Telephone

Subject House Bill No. 19 by Representative Swanson – Committee Hearing 4 p.m. March 13.

Please deliver the following message to either Herb Cotton, Gordon Parker, John Russell or Henry Pratt before this afternoon's hearing. (Gordon Parker is staying at the Baranoff.)

The proposed requirement (Section 42.20.170), which would do away with liability for telephone service charges if they are not billed within sixty days, is arbitrary and not based upon any data or studies supporting the sixty-day limitation. As a matter of fact, the established industry practices and standards, and the details involved in the billing cycles clearly require more than sixty days to permit billing of the various types of telephone charges. The section is not clear as to whether or not telephone service charges are the monthly recurring charges. An attempt to circumscribe this arbitrary period without foundation or support is an invasion of the business and management of telephone companies, and there is serious question as to whether or not this extreme action proposed to the Legislature can in fact legally discharge the liability to pay for telephone services, and may be an intervention into a contract relationship and the right to contract.

The proposed Section 42.20.160 unjustifiably and without any legal authority would have each customer make a unilateral deduction of telephone service charges for each day that a telephone is inoperative,

due to the malfunction of the individual subscriber's telephone service or the telephone system to which it is connected, without distinguishing between the fact that the local exchange company has the responsibility for the working order of the telephone instruments. The proposal does not set up any lines of demarcation or means of identifying responsibility and, as written, the customer could deduct charges for long distance calls which were completed, even though the long distance company might not have had anything to do with the outage or the malfunction. This proposed self-policing can only lead to chaos, as people claim outages and arbitrarily deduct from billings, thus depriving the companies of earned revenues by arbitrary deductions that bear no relationship to the problems sought to be corrected. The proposal is not clear, but appears to be referring to deducting from the monthly recurring charge of the local exchange service company, but inasmuch as telephone billings usually include the local exchange service and the long distance telephone charges for the month, no doubt the subscriber would deduct 1/30th of the local service and the long distance charges.

This proposed legislation raises serious questions as to constitutionality, invasion of private enterprise, and arbitrary action without sufficient foundation to support the deduction as reflecting a measure of damages, and in the case of the 60-day billing limitation there are no facts upon which the 60 days can

Attention: Bill Gooding
For delivery to Messrs. Cotton, Parker, Russell or Pratt
House Bill No. 19
March 12, 1975

as supported, based upon valid business statistics and experience.

Andrew R. Sarisky

Mr. Gooding:

Thanks for your assistance in delivering this messa[illegible].

THE PRECEDING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

Originating Company	Nbr of Messages	%
Alaska	922,973	95.4
AT+T, CNT, BCT	43,101	4.1
CVCS	1,791	.2
Re-Bills	2,368	.3
	1,030,233	100.0

Current Billing Flow - Continental Telephone Company

Date of Call	RCA processing completed MAG tape	RCA processing completed EDP cards	Mail to Arrive Calif	Cont. Tel Co Cutoff	Elapsed Time
1-5	11	13-16	18	20	25-30 days
6-10	16	18-23	25	28 next mo.	50-54 "
10-15	21	23-28	30	28 next mo.	45-50 "
16-20	26	28-3	5	28	41-45 "
21-25	31	3-8	10	28	35-40 "
26-31	6	8-13	15	28	31-35 "

Proposed Billing Flow - Continental Telephone Company

Date of Call	RCA Processing Completed Mag Tape	Mail to Arrive Calif	Cont. Tel. Co Cut-off	Elapsed Time
1-5	11	13	28	25-30 days
6-10	16	18	28	20-25 "
11-15	21	23	28	15-20 "
16-20	26	28	28	10-15 "
21-25	31-1	3	28 next month	35-40 "
26-31	6	8	28 next month	30-35 "

Billing Flow Customer Denies Knowledge - CTC

	Elapsed Time	Total elapsed Time
Customer initially billed		54 days
Cust. DAK	15-30 days	69-84 days
Cust. Field Investigation + re. to Cal.	5 "	74-89 "
California Processing	5 "	79-94 "
Return to RCA	3 "	82-97 "
RCA RA processing	3 "	85-100 "
CTI	15-30 "	100-130 "
Re-Billing by RCA	5 "	105-135 "
	25-50 "	130-185 "

Proposed Billing Flow - Continental Telephone Company

Date of Call

RCA Processing

HB

20

"An Act relating to veterans' loans."

1/30/75

COMMITTEE REPORT

FINANCE

HOUSE

Mr. Speaker: Date February 3, 1975

The Committee on Commerce has had House Bill 20

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

STATE OF ALASKA

Inter-Department Route Slip

TO:
MAIL STATION NUMBER 3101

ATTENTION Kip Bob Bradley

☐ Approval	☐ Note & Return
☐ Signature	☐ Initial & Return
☐ Comment	☐ Return As Requested
☐ Contact Me	☐ Return For Approval
☐ Prepare Reply	☐ Necessary Action
☐ For Your File	☑ Your Information

Remarks: Bob — Points 2 (U.S. & State) & 3 (Example) are KOJ on this secondary ESN

FROM:
DEPARTMENT [illegible]

BY [illegible] DATE 2/15/75

02-002 (REV. 11/72)

FACT SHEET
ON
STATE VETERANS' LOANS
7% vs 8%

1. Present Inventory
   a. Present "book" value of State owned Veteran's loans: $48.1 million.
   b. Present average interest rate of State portfolio: 6.5% (net)
   c. Present average interest rate (assumed) in the money market: 9%
   d. Present "market" value of State portfolio: $35.6 million
   e. Loss to the State: $12.5 million

2. Ongoing Inventory
   Average: $36 million a year.
   Assumption: Money market at 9%

$36 MILLION

Market Value at end of yr.	7%	8%	Loss to the State
1st	$27 million	$30.6 million	$ 3.6 million
2nd	20.25	26.0	5.75
3rd	15.2	22.1	6.9
			$16.25 million

3. Impact on Veteran
   a. Assume $55,000 home loan
   b. Assume $19,000 income
   c. Fact: difference between 7% & 8% = $480 a year in interest.
   d. Assume 28% combined Federal & State tax bracket.
   e. Net $ impact on average veteran = $480 x .72% = $345 per year.

4. Conclusion
   a. Veteran's loans at 7% vs 8% costing State average of $5.42 million per year.
   b. Impact on individual Veteran averages $345 per year.
   c. Veteran's loan of 8% still below prevailing market rate.

The Matter of Veteran Loan Interest Rates

1. The purpose of the veterans' loans program is making low interest loans to returning veterans for the purchasing, building and remodelling of homes and businesses and multi-dwellings, and in a more limited sense for personal reasons.

2. The program has functioned exceptionally well since 1946 without expense to the taxpayers of the State. The interest received from the loans has paid all operating costs and made modest profits over the years.

3. Increasing interest rates from 7% to 8% is a 14 1/4% increase which is clearly inflationary at a time when inflation in all other areas has already reduced the standart of living for millions of Americans. All of Alaska's citizens have been affected by higher food costs, service increases, utility charges and every other commercial fee.

The increases in taxes and insurance costs have been higher than other rising cost of living items. Not only has the millage rate been increased in most localities, but the value of the real estate has excalated far beyond the original cost to the owner. Higher valuation has required more insurance coverage to insure [illegible]. [illegible] along with other costs.

4. Vietnam veterans are just completing their education and finding employment in Alaska. Many are just starting families, and

this is what the increased interest rate would mean to them:

a) on a 50,000 dollar loan for 25 years, payments at 7% for P&I are $353 per month. At 8% payments are $385 per month, a difference of $32 per month or $384 per year. This is a substantial amount of money.

b) The total cost of a $50,000 home at 7% for 25 years is $105,900. At 8% the cost is $115,500, almost $10,000 more.

c) This additional money should be savings for emergencies, education costs for children, or to improve their "quality of living."

d) There is a very important item that must be considered in any loan program that affects the veteran, the community in which the property is located, and the state money involved. The maintenance of a home requires constant expenditures for labor and materials to insure the value of the property will not depreciate. The extra interest cost could very well jeopardize this critical element. A reduction in regular maintenance generally costs more to the veteran in emergency situations that could impair his ability to repay the loan. History shows that the last time interest rates were increased the delinquency rate was the highest in the history of the program.

3. Benefits of the low interest rate program have been many and the general citizenry of Alaska have profited along with the veteran population.

a) It has stimulated home construction, repair and housing in

general. In most cases home building has been with the veterans labor. The tax base needed to build schools, provide utilities, and maintain communities has been enhanced not only by the cost of new construction, but by the value of individual labor. Merchants have sold the materials for building and durnishing, transportation companies hauled the meterials, laborers and skilled mechanics have been paid for plumbing, heating, electrical and carpentry costs.

b) The veteran and his family have had a higher standard of living or "quality of life" if you please, as a result of the fruits of his labor.

c) Housing is critical in Alaska and has been throughout the history of the territory and the state. Thousands of units built under the veterans loan program have aided in alleviating that shortage. It is not enough but it has helped. Housing is still in short supply in every area of the state.

d) The remote areas of Alaska have been specially aided by the program. Loans in 60 small communities have reaped untold benefits for the rural community residents. Again, not sufficient help, but a great assist in a cash short state.

e) Veterans have gone to school, paid emergency bills that could have caused financial disaster, built businesses, improved their "quality of life" through use of low interest veterans' loans.

6. The action to increase interest rates is taken at a time when nationally interest rates are being reduced. Economists

have admitted that the reduction of home building in the U.S. have created a depression. It has also created a housing shortage that results in higher housing costs to those persons in the lower income groups who can least afford it. The returning veterans who are just finding employment are in the worst crunch. Every $35 creates a reduction in living standards.

Alaska if facing a period of population growth that exceeds any prior period of history of the state.

Housing costs have skyrocketed in the pipeline impact area because of lack of units being vuilt during the national policy of "tight money" and high interest rates. We will not catch up by discouraging building and reducing the money supply.

This is a time to encourage individual effort in home building, improve prospects for the small businessman and encourage individual production.

7. There is no need to improve the profit picture of the Veterans loan program. In FY 1974 the net profit was $767,000. In the first 6 months of FY 1975, the net profit was approximately $200,000. The program pays all operational expense and enjoys a good reputation in the state.

8. The claim that a 1% increase will make $400,000 additional [illegible] loans will be sold and the Vets Revolving Fund will get 1/2 of 1% for servicing it could take $80 million in loans to generate a gross of $400,000.

Actually if the program loans $25 million in FY 1975 at 1%

it will generate $125,000 in gross income in service fees for the program. If it made 50 million in loans which is not likely, but is possible then $250,000 would be tenerated in gross income from service fees. $250,000 is 1% of $25 million. This ammount will make 2 1/2 business loan of $100,000; 4 multi-dwelling loans of $60,000; or 5 home loans of $50,000 each. The benifits do not support the adverce affects on the majority of veterans in reducing their "quality of life".

9. The most important point is that every dollar invested in veterans loans has been spent in Alaska for the citizens and veterans of Alaska. The state recieves a good interest rate on the investment in veterans loans. There is a cash flow of more than $500,000 per month vack to the general fund in principal and interest on this investment. It generates business and tax base.

10. It is not a time to discourage housing, and business starts in Alaska by increasing interest rates or penalizing Vietnam Veterans. It is a time to encourage the veterans of Alaska to utilize their personal labors and efforts to build better homes and businesses to the benefit of all Alaskans.

HB
26

HB 26

Tape no.	Date
2	2/6
4	2/14
5	2/14

"An Act authorizing the creation of regional electrical authorities."

1/20/75

COMMITTEE REPORT

FINANCE

HOUSE

Mr. Speaker: Date Feb. 11 1975

The Committee on Commerce has had House Bill 26 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "anJ" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

E. S. Seadle - Pres
Lou Hall
Bob Hooks
R. [illegible]
D. Rees
[illegible]

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

E. S. Seadle Chairman

A M E N D M E N T

Offered in the HOUSE By Commerce Committee

To: _____ HOUSE BILL NO. 28

_____ SENATE BILL NO. ____

AMENDMENT: Page 2, 11 Line: 16, 17, 16

Page 2, line 16

After the word "within" add the words "the service area of a certificated rural electrical cooperative or within".

Page 2, line 17

After the word "municipality" add the words "or cooperative"

Page 11, line 10

After the words "facilities of" add "a rural electrical cooperative or" delete the word "a" and insert the word "its customers".

Alaska State Legislature

House

JUNEAU ALASKA

Commerce Committee

Meeting Feb. 6,
House Bill 26

Members Present: Wallis, Kelley, Rhodes, Urion, Freeman

Commissioner Motley: Power requirements here are mainly affected by outmoded equipment and a change in use requirements. The mthodology of the bill is good, though it needs to set an effective date.

Bob Loescher: Through the work of the Tlinglet-Haida Housing Authority'se and others have found that a chief area of difficulty is the development of electrical facilities which can handle industry and growth. A year ago they did a study with Community and Regional Affairs and other groups to provide data to use to go to the Rural Electrification Administration (REA) for low-interest loan money. In this process they took a look at the State Co-operative Act and the Rural Electrification Co-operative Act which normally are used as the legal instrument of the business entity of an electrical firm. They realized there would be difficulties,under these laws, they would like to merge municipal systems into a common system. They also need some powers, such as condemnation, tax-exemption, and new sources of funding. They drafted this bill so they can incorporate.

Bill Berrier: Mr. Berrier was called in to propose solutions to the electrical problem, of how electricity can best be provided. Many villages through out Alaska have similar problems. Individual villages may not get REA loans, because they aren't singly large enough to have feasible projects. Some system is needed to combine them into larger units. Another thing they found out they needed was something capable of REA loans. Also they needed to be given the authority to operate under. And last it had to be something capable of issuing tax-exempt securities. There are several approaches:

1. An REA co-op formed, there are some difficulties
   a. The acts is outmoded
   b. there are technical difficulties
   c. they can't issue tax-exempt securities.
2. Using the Cooperation agreement of the Consititution, municipalities involved could enter into a cooperation agreement but this is very complex when you have five cities.

None of these devices seemed adequate. The approach they came up with would also have to tie in with other factors.

1. The possibility of a state authority.
2. Possibilities of state appropriations of direct aid.

This bill seemed to create a mechanism that would solve the problems involved, and it should not hurt AVEC.

Alaska State Legislature

House

JUNEAU ALASKA

COMMERCE COMMITTEE

January 31, 1975

Consideration of HB #26

The House Commerce Committee will be considering HB #26 by Duncan regarding Regional Electric Authorities on February 6 at 8:00 AM in the committee room. If you wish to testify please contact Kim Hutchinson at 465-3824 so that time can be made available for you.

Thank you,

Bob Bradley, Chairman

cc Jim Duncan
Bob Loesher
Alaska Public Utilities Commission
Tony Motley, Commissioner of Commerce
Aleut Corporation
AHTNA Incorporated
Arctic Slope Regional Corporation
Bering Straits Native Corporation
Bristol Bay Native Corporation, Inc.
Chugach Natives, Inc.
CALISTA Corporation
Cook Inlet Region, Inc.
DOYON, Ltd.
KONIAG, Inc. Regional Native Corp.
NANA Regional Corporation, Inc.
SEALASKA Corporation
Jan Van Dort
N.C. Banfield

BB/mr

BILLY G. BERRIER
ATTORNEY
144 NOWELL STREET
JUNEAU, ALASKA
99801

Phone 586-6142
Dec. 6, 1974

MEMORANDUM TO: Robert W. Loescher
Executive Director
Tlingit-Haida Regional Housing Authority

Enclosed are the two bills I have drafted at your request.

The problem you outlined was to find a means whereby electrical systems could be constructed, operated, and financed in certain specified areas. Because of the current state of the existing service and the limited revenue potential several factors were necessary;

(a) Financing at the lowest possible cost which requires authority to receive and utilize federal and state grants and loans (including R.E.A. financing) and a capability to issue securities, the income of which is not taxable to the holder to realize the interest savings inherent in tax exempt securities

(b) It must be possible to construct and operate the systems on a larger than local basis because individually the village operations would not be feasible financially

(c) Maximum operating flexibility in order that the diverse factors which exist and may arise in the future could be accomodated and maximum operating effeciency could be attained thus realizing such cost economies as are possible.

Under existing law part, but not all, of these objectives can be attained. There are several limitations on electrical cooperatives organized under AS. 10.25 the principal ones being structural and service limitations and the lack of authority to issue tax exempt securities. Municipal operation does not allow the scope necessary for a feasible project and,

althouth the municipalities could enter into a cooperation agreement under the constitution and statues, no seperate corporate entity to carry out the required functions could be created directly. This could be handled in a somewhat cumbersome manner but because the fact that one of the areas which must be included is not a municipal corporation this avenue is not open.

After considerable exploration of the alternatives we agreed that legislation providing a vehicle to accomplish this should be prepared. Any such legislation must avoid conflict with a state-wide agency for financing electrical systems should one be created.

Since there are two reasonable approaches to do this I have drafted a bill for each alternative approach. The enclosed bills, in my opinion, accomplish these objectives. Further the vehicles which can be created would be useful in a wide varity of situations so that they should be acceptable to other areas of the state, since many areas face similar problems.

Billy J. Bercier

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 10, 1974

RECEIVED
JAN 16 1975
Tlingit-Haida Regional Housing Authority
525 Village Street
Juneau, Alaska 99801

Mr. Robert W. Loescher
Executive Director
Tlingit-Haida Regional
Housing Authority
525 Village Street
Juneau, Alaska 99801

Dear Mr. Loescher:

This will acknowledge our receipt of your letter of December 17, 1974, concerning rural electrification problems and legislation.

I know personally that the electrification problems you speak of in your letter are genuine and that their solution is critical to achieve better living conditions for rural residents throughout the State. Reliable electric service and other basic public utilities have a key role in community development and are a major responsibility of local government and related public utility organizations.

Therefore, I have requested the Department of Community and Regional Affairs to study the draft legislation you propose to determine how it might contribute to realization of the State's community development objectives. When that review is completed, a more detailed reply will be forthcoming.

Thank you for sharing your experience with rural utility problems and your ideas about possible legislative solutions.

Sincerely,

Jay S. Hammond
Governor

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL ELECTRIFICATION ADMINISTRATION
WASHINGTON, D.C. 20250

OFFICE OF THE ADMINISTRATOR

JAN 14 1975

Mr. Robert W. Loescher, Executive Director
Tlingit & Haida Regional Housing Authority
Juneau, Alaska 99801

Dear Mr. Loescher:

We have read the proposal that you submitted to your legislators and do wish to offer some comments regarding it.

In earlier correspondence to you dated July 17, 1974, and September 12, 1974, Mr. Fitch and I have indicated reasons why we are not in favor of the creation of additional organizations which may detract from the ability of the AVEC to accomplish its objective.

In a letter to Senator Gravel dated August 15, 1974, we discussed the possibility of making REA funds available directly to the State of Alaska or an authority created by the State for such a purpose. Under such an arrangement REA could make loans and advance funds based on assignment of bonds or other forms of security. The State would continue to have access to other Federal funds as it now does. Under such an arrangement the property of AVEC could be transferred to the State by debt assumption. Since the State is now contributing substantially to the support of AVEC through the high minimum revenue guarantee by the State operated schools, substantial savings may be made by using village school employees, many of whom are already qualified to operate the generating plants. In addition, the State is in the best position to determine where and at what rate additional village systems should be added in coordination with its other village activities.

We now suggest that perhaps such a solution may still be the best means of resolving the problems of feasibility limitations and could result in more villages being provided service at a faster rate. REA would be favorable to such an arrangement.

Sincerely,

David A Hamil

DAVID A. HAMIL
Administrator

tlingit & haida regional housing authority

ROBERT W. LOESCHER
Executive Director

February 14, 1975

Mr. Robert Bradley
Chairman
House Commerce Committee
Alaska State Legislature
Pouch V
State Capital
Juneau, Alaska 99801

Re: HB 26

Dear Mr. Bradley:

We would like to thank your committee for the diligent work it has put into HB 26 entitled "An Act Authorizing the Creation of Regional Electrical Authorities." As proponents of the bill, we have been working to generate support of interested groups around the State of Alaska in order to secure proper input on the legislation for its passage. Today in a meeting with the Alaska Rural Electric Cooperative Association an amendment was proposed by the group that would improve the legislation and prevent encrouchments into existing electrical service areas without consent of already established cooperatives. The changes are as follow:

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(b) The regional electrical authority has jurisdiction

FRANK SEE — Chairman, Hoonah
CYRIL GEORGE — 1st Vice Chairman, Angoon
CAROLYN POWELL — Secretary, Yakutat
ROBERT SANDERSON — Treasurer, Hydaburg
BERTHA CAVANAUGH — Member at Large, Kake

525 VILLAGE STREET JUNEAU, ALASKA 99801 TELEPHONE (907) 586-2192

to operate in all or part of the operating area of the individual association as determined by resolution of the governing body of the association. The governing body may, by resolution, add to or subtract from the area served. The authority may operate within the service area of a certificated rural electrical cooperative or within the corporate limits of a municipality only with consent, by resolution, of the governing body of the municipality or cooperative; however, if an authority is operating within an area which becomes part of a municipality or has a certificate of convenience and necessity from the Alaska Public Utility Commission to operate in an area which becomes part of a municipality, no consent is necessary.

With the aforementioned changes, the Alaska Rural Electric Cooperative Association went on record as supporting the legislation.

Our group completely supports the recommended changes and requests the amendment as soon as possible. We will ask the sponsors of the legislation, Representatives Duncan and Miller, by a copy of this letter, to endorse these changes in the draft legislation.

Thanking you for this consideration.

Sincerely,

TLINGIT HAIDA REGIONAL
HOUSING AUTHORITY

Robert W. Loescher
Executive Director

cc: Rep. Duncan
Rep. Miller
Senator Bill Ray
Mayor of Hoonah
Mayor of Kake
Mayor of Angoon
Mayor of Klawock
Mayor of Klukwan
Alaska Village Electric Cooperative Inc.

RWLcjg

tlingit & haida regional housing authority

ROBERT W. LOESCHER
Executive Director

February 14, 1975

Mr. Robert Bradley
Chairman
House Commerce Committee
Alaska State Legislature
Pouch V
State Capital
Juneau, Alaska 99801

Re: HB 26

Dear Mr. Bradley:

We would like to thank your committee for the diligent work it has put into HB 26 entitled "An Act Authorizing the Creation of Regional Electrical Authorities." As proponents of the bill, we have been working to generate support of interested groups around the State of Alaska in order to secure proper input on the legislation for its passage. Today in a meeting with the Alaska Rural Electric Cooperative Association an amendment was proposed by the group that would improve the legislation and prevent encrouchments into existing electrical service areas without consent of already established cooperatives. The changes are as follow:

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Thanking you for this consideration.

Sincerely,

TLINGIT HAIDA REGIONAL
HOUSING AUTHORITY

Robert W. Loescher
Executive Director

cc: Rep. Duncan
Rep. Miller
Senator Bill Ray
Mayor of Hoonah
Mayor of Kake
Mayor of Angoon
Mayor of Klawock
Mayor of Klukwan
Alaska Village Electric Cooperative Inc.

RWLcjg

HB26

Regional Electrification Authority

Whereas: adequate housing, public facilities, and economic development are desperately needed in our rural areas, and

Whereas: development of those adequate housing depend on safe electrical systems, and

Whereas: it is necessary to provide public corporations to assist in providing those electrical systems, and

Whereas: The SEACAP Board of Directors is aware of the filing of HB 26 by Representatives Duncan and Miller,

Now therefore be it resolved: that SEACAP Board of Directors, meeting this day, February 13, 1975, in Juneau, Alaska, vote to support House Bill 26, authorizing the creation of regional electrification authorities.

ATTEST:

Dorothy Williams
Secretary

Dick Whittaker
President

February 14, 1975
Date

IN REPLY REFER TO:

UNITED STATES
DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

Juneau Area Office
P. O. Box 3-8000
Juneau, Alaska 99801

January 2, 1975

Mr. Robert W. Loescher
Executive Director
Tlingit & Haida Regional
Housing Authority
525 Village Street
Juneau, Alaska 99801

Dear Mr. Loescher:

Indeed we are interested in your approach to Rural Electrification legislation as advanced by your December 19, 1974 letter. We hope you have been in touch with AVEC on the matter, as we understand they have been working on the same basic approach for several months past. The impacts of the proposed legislation on the economics of rural utilities might be best presented for comparison using the AVEC operating experience of the past five years.

Perhaps it would help for you to understand our particular aspect of the AVEC dilemma. Five years ago a three-way agreement was made between REA, AVEC and BIA. Essentially, an income base was established for AVEC by BIA agreement to pay a minimum rate for all schools using AVEC electricity so AVEC could build up the system and be able to repay REA loans needed to start the system. The State Operated Schools system accepted a like agreement shortly thereafter. When started, the rate was $1200 per location per month; it is currently $2835 per month per location. As you can see, this is an increased cost of over 150 percent over five years to BIA and SOS. This is a substantial cost borne by both the BIA and SOS educational budgets.

Within the BIA budgetary system our budget increases over the same five years have not kept pace. Our appropriations have increased less than 40% over the same period of time. Our school maintenance and operating budgets now buy little more than electricity, even extending to our schools where there are no AVEC systems. This, combined with the extreme increases in petroleum products and general inflation, face us with very serious problems this fiscal year and next.

While we cannot readily guage the dollar impact of what you propose as a legislative remedy, we see quite clearly that the method used

with AVEC in the recent past cannot support either the continuing r rural electric systems nor development of any new rural systems. A new base must be built so rural electrical systems can achieve sound financing, especially because of the impacts you point out caused by housing improvements and increased economic and industrial-type development activities. The reliance on educational facilities as the financing base is too narrow and cannot sustain the base over the long term.

While your letter does not solicit specific help, we will be happy to assist with the development of materials for legislative presentation at your request. We are limited so far as staff knowledgeable in this particular area, but do have records and information which may be helpful as you develop your presentations.

Sincerely yours,

Joseph E. Kahklen

Joseph E. Kahklen
Acting Area Director

ALASKA FEDERATION OF NATIVES, INC.

1675 C STREET
ANCHORAGE, ALASKA 99501
PHONE (907) 274-3611

Integrity, Pride in Heritage, Progress

Stuffer file Roger

RECEIVED
EXECUTIVE OFFICES
JAN 27 1975
Tlingit-Haida Regional Housing Authority
525 Village Street
Juneau, Alaska 99801

January 22, 1975

Mr. Robert W. Loescher
Executive Director
Tlingit & Haida Regional Housing Authority
525 Village Street
Juneau, Alaska 99801

Dear Robert:

First, let me congratulate you on your proposed Rural Electrification legislation. With your usual wisdom and forethought, I find that your noble approach to solving the problem of delivery of hand maintenance the cheap power source for villages in Southeast Alaska is a good one.

I am pleased to see that at a recent meeting of villages and towns in Sitka, that your proposal and your concept was adopted by those in attendance. Please let me know if there is anything I can do to help you in establishing these new means of developing rural electric co-ops.

Sincerely,

Roger

Roger Lang
President

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF COMMERCE

ALASKA PUBLIC UTILITIES COMMISSION

1100 MACKAY BUILDING
338 DENALI STREET — ANCHORAGE 99501

January 17, 1975

Robert W. Loescher, Executive Director
Tlingit and Haida Regional
Housing Authority
525 Village Street
Juneau, Alaska 99801

Dear Mr. Loescher:

I have read your letter of December 18, 1974 with interest, and have given copies of this material to my fellow commissioners. We will keep your discussions in mind during the upcoming legislative session in the event we are asked to comment regarding the power situation in small communities.

I appreciate the time and effort that you have taken to develop what I consider a valid document discussing the difficulties of financing electric generation and distribution systems in these areas.

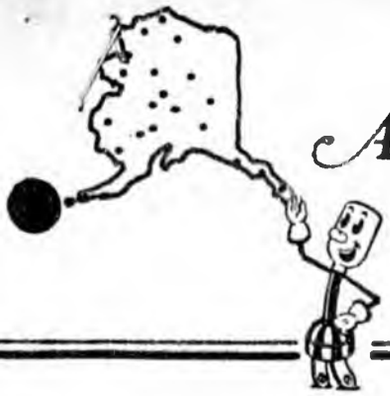
Very truly yours,

ALASKA PUBLIC UTILITIES COMMISSION

James R. Hendershot, Commissioner

JRH/pat
CC: Mayor Frank See - Hoonah
Mayor Cyril George - Angoon
Mayor Frank Gordon - Kake
Mayor John Skann - Klawock
Mayor Dick Hotch - Klukwan

RECEIVED
JAN 22 1975
Tlingit-Haida Regional Housing Authority
525 Village Street
Juneau, Alaska 99801



Alaska Village Electric Co-operative, inc.

999 TUDOR RD., ANCHORAGE, ALASKA 99503
TELEPHONE 279-3548

September 16, 1974

Robert Loescher
Executive Director
Tlingit Haida Regional Housing Authority
525 Village Street
Juneau, Alaska 99801

Dear Mr. Loescher:

In accordance with recent correspondence and followup of your meeting with the A.V.E.C. Board, attached is a copy of a Resolution passed by the A.V.E.C. Board on September 10, 1974.

Best Wishes,

ALASKA VILLAGE ELECTRIC
COOPERATIVE, INC.

Loyd M. Hodson
General Manager

LMH/ma
Encl.

RECEIVED
SEP 19 1974
Tlingit-Haida Regional Housing Authority
525 Village Street
Juneau, Alaska 99801

RESOLUTION NO. _____

ENTITLED: DEVELOPMENT OF A SOUTHEAST
ALASKA ELECTRICAL COOPERATIVE

WHEREAS, the Alaska Village Electric Cooperative, Inc. is a nonprofit Cooperative association established under the and by virture of the Electric and Telephone Cooperative Act of 1959 for the express purpose of providing electrical generation and service to the people of small and often remote village of the State of Alaska, and,

WHEREAS, AVEC'S Electrification program was made possible through an REA loan granted in 1968 and subsequent REA loans to date, and,

WHEREAS, the Alaska Village Electric Cooperative was established and is being supported through the mutual cooperation of several state and federal agencies, and

WHEREAS, AVEC is currently providing service to 48 villages in the State of Alaska, only one of which is located in Southeast Alaska, and

WHEREAS, the Tlingit & Haida Regional Housing Authority is working with various State and Federal agencies in an effort to electrify several rural Southeast Alaskan communities.

THEREFORE, BE IT RESOLVED, that the Alaska Village Electric Cooperative, Inc. does hereby approve of and endorse the Authority's efforts to have a comprehensive study conducted in the villages in question to determine the feasibility of establishing a separate REA sponsored cooperative to serve rural Southeast Alaska.

Passed and approved by the Board of Directors of the Alaska Village Electric Cooperative, Inc. this 10th day of Sept, 1974, by a vote of ____yeas and ____nays.

President
Alaska Village Electric Cooperative, Inc.

Secretary

tlingit & haida regional housing authority

ROBERT W. LOESCHER
Executive Director

February 10, 1975

Honorable Tim Wallis
House of Representatives
State of Alaska
Vice-Chairman
Commerce Committee
Pouch V - State Capitol
Juneau, Alaska 99801

Dear Representative Wallis:

Pursuant to your request, enclosed for the Commerce Committee's information in reviewing House Bill No. 26, "An Act Authorizing the creation of Regional Power Authorities", is the preliminary feasibility study prepared by the Tlingit-Haida Regional Housing Authority.

Also, included are the preliminary responses from various State and Federal agencies after reviewing the bill.

We urge early consideration of this legislation. Thanking you for this consideration.

Sincerely,

TLINGIT-HAIDA REGIONAL HOUSING AUTHORITY

Robert W. Loescher
Executive Director

encls.

RWL:CG:lg

FRANK SEE — Chairman, Hoonah
CYRIL GEORGE — 1st Vice Chairman, Angoon
CAROLYN POWELL — Secretary, Yakutat
ROBERT SANDERSON — Treasurer, Hydaburg
BERTHA CAVANAUGH — Member at Large, Kake

525 VILLAGE STREET JUNEAU, ALASKA 99801 TELEPHONE (907) 586-2192

tlingit & haida regional housing authority

ROBERT W. LOESCHER
Executive Director

February 14, 1975

Mr. Robert Bradley
Chairman
House Commerce Committee
Alaska State Legislature
Pouch V
State Capital
Juneau, Alaska 99801

Re: HB 26

Dear Mr. Bradley:

We would like to thank your committee for the diligent work it has put into HB 26 entitled "An Act Authorizing the Creation of Regional Electrical Authorities." As proponents of the bill, we have been working to generate support of interested groups around the State of Alaska in order to secure proper input on the legislation for its passage. Today in a meeting with the Alaska Rural Electric Cooperative Association an amendment was proposed by the group that would improve the legislation and prevent encrouchments into existing electrical service areas without consent of already established cooperatives. The changes are as follow:

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With the aforementioned changes, the Alaska Rural Electric Cooperative Association went on record as supporting the legislation.

Our group completely supports the recommended changes and requests the amendment as soon as possible. We will ask the sponsors of the legislation, Representatives Duncan and Miller, by a copy of this letter, to endorse these changes in the draft legislation.

Thanking you for this consideration.

Sincerely,

TLINGIT HAIDA REGIONAL
HOUSING AUTHORITY

Robert W. Loescher
Executive Director

cc: Rep. Duncan
Rep. Miller
Senator Bill Ray
Mayor of Hoonah
Mayor of Kake
Mayor of Angoon
Mayor of Klawock
Mayor of Klukwan
Alaska Village Electric Cooperative Inc.

RWLcjg

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 10, 1974

RECEIVED
JAN 16 1975
Tlingit-Haida Regional Housing Authority
525 Village Street
Juneau, Alaska 99801

Mr. Robert W. Loescher
Executive Director
Tlingit-Haida Regional
Housing Authority
525 Village Street
Juneau, Alaska 99801

Dear Mr. Loescher:

This will acknowledge our receipt of your letter of December 17, 1974, concerning rural electrification problems and legislation.

I know personally that the electrification problems you speak of in your letter are genuine and that their solution is critical to achieve better living conditions for rural residents throughout the State. Reliable electric service and other basic public utilities have a key role in community development and are a major responsibility of local government and related public utility organizations.

Therefore, I have requested the Department of Community and Regional Affairs to study the draft legislation you propose to determine how it might contribute to realization of the State's community development objectives. When that review is completed, a more detailed reply will be forthcoming.

Thank you for sharing your experience with rural utility problems and your ideas about possible legislative solutions.

Sincerely,

Jay S. Hammond
Governor

Nushagak Electric Co-operative, Inc.

P. O. BOX 197
DILLINGHAM, ALASKA 99576

February 7, 1975

Mr. Nels A. Anderson, Jr.
State House of Representatives
Pouch V
Juneau, Alaska 99801

RE: House Bill No. 26

Dear Nels:

A copy of HB No. 26 came across my desk the other day and it moves me to make some comment in behalf of Nushagak Electric Cooperative, Inc.

I heartily approve of the concept of increasing, improving and insuring the reliability of electric service in this state especially since climatic conditions play such a significant part in our life style. Unfortunately, most communities today have very few options available for their very survival in the event of an electrical system breakdown.

We need a plan to handle contingencies of an emergency nature, and as far as I can see, there has been nothing forthcoming from any agency to handle the ever increasing frequency of prolonged power outages and breakdowns that occur each winter. For an example, the military generators that were shipped to Kodiak in their recent power crisis were immediately shipped back outside for storage. Why were they not stored at Elmendorf or other suitable military installations in Alaska for future contingencies?

On the surface, it would appear that HB 26 would not readily lend itself to more efficient rural electric utility operations. Apparent disadvantages would include the following:

1. The establishment of a regional electrical authority would provide a political tool for assumption of responsibilities already adequately handled by other agencies, i.e., Federal Power Commission, Rural Electrification Administration, Alaska Public Utilities Commission, various municipalities and REA cooperatives throughout the state.

2. HB 26 as written does not make provision for technical expertise on the governing body of the association. This is really the crux of most power supply problems -- lack of funds and good technical assistance.

3. The mailing list dated January 31, 1975 and signed by Bob Bradley appears to be essentially directed at Native organizations throughout the State. No utilities are included. I cannot help but feel that this may be an effort to make political hay over a particular event which did not affect more than one community. If this is not the case, I would certainly be receptive to some enlightenment.

On the plus side, I believe HB 26 brings to light and helps to underscore a very basic problem area -- that the power supply in most Alaskan communities leaves much to be desired. We do not have a readily available supply of technical manpower which is of primary importance if the lights are to be kept burning. Most Alaskan communities are at the mercy of one fuel supplier. Most utilities in those areas have to rely on diesel generation which is, historically, the most expensive. Requirements involving development of hydro power are astronomical -- no rural community can foot the bill by itself!

Yes, there are very definite power supply problems begging for solutions. To start with, I would suggest establishing a power pool under the aegis of the APUC or the Alaska Power Administration that would supply emergency diesel generation units on short notice to any Alaskan community. In addition, this same agency should survey all possible hydro sites, determine feasibility over the long run and assist through the REA or a state bonding bank to develop these facilities as soon as possible. The immediate effect would be twofold -- the cost of fuel would be eliminated and the cost of producing power over the long run would remain relatively stable. There is no chance for this condition to exist as long as we are tied to a rapidly depleting fuel.

Nels, thank you for listening. I would like some feedback on this matter, if possible.

Best Regards,

NUSHAGAK ELECTRIC COOPERATIVE, INC.

Dave Bouker

David F. Bouker
Manager

DFB:jn

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL ELECTRIFICATION ADMINISTRATION
WASHINGTON, D.C. 20250

OFFICE OF THE ADMINISTRATOR

JAN 14 1975

Mr. Robert W. Loescher, Executive Director
Tlingit & Haida Regional Housing Authority
Juneau, Alaska 99801

Dear Mr. Loescher:

We have read the proposal that you submitted to your legislators and do wish to offer some comments regarding it.

In earlier correspondence to you dated July 17, 1974, and September 12, 1974, Mr. Fitch and I have indicated reasons why we are not in favor of the creation of additional organizations which may detract from the ability of the AVEC to accomplish its objective.

In a letter to Senator Gravel dated August 15, 1974, we discussed the possibility of making REA funds available directly to the State of Alaska or an authority created by the State for such a purpose. Under such an arrangement REA could make loans and advance funds based on assignment of bonds or other forms of security. The State would continue to have access to other Federal funds as it now does. Under such an arrangement the property of AVEC could be transferred to the State by debt assumption. Since the State is now contributing substantially to the support of AVEC through the high minimum revenue guarantee by the State operated schools, substantial savings may be made by using village school employees, many of whom are already qualified to operate the generating plants. In addition, the State is in the best position to determine where and at what rate additional village systems should be added in coordination with its other village activities.

We now suggest that perhaps such a solution may still be the best means of resolving the problems of feasibility limitations and could result in more villages being provided service at a faster rate. REA would be favorable to such an arrangement.

Sincerely,

David A Hamil

DAVID A. HAMIL
Administrator

tlingit & haida regional housing authority

ROBERT W. LOESCHER
Executive Director

December 12, 1974

Honorable Jim Duncan
House of Representatives
State of Alaska
R.R. 4 Box 4316
Juneau, Alaska 99801

Re: Rural Electrification Legislation

Dear Mr. Legislator:

In attempting to develop the elements required for comprehensive planning in housing, water and sewerage facilities, roads, electrical generation and distribution, health, employment and industrial development in Alaskan communities, often times, we discover we do not have all the tools to work with inorder to accomplish the job. Road blocks such as technical capability, feasibility funds, proper corporate authority, long term funding, legal powers and public interest to satisfy basic steps hinder progress. Such is the case with the whole area of electrical generation and distribution systems development throughout rural Alaska. It is extraordinary that in the year 1974 - when we are able to put men on the moon, build oil pipelines, conquer the atom communicate by satellite - that a basic service such as providing electricity to our homes and industries has become such an insurmountable problem. Yet it has. Some places do not have electricity at all. Other places have inadequate systems that are more of a burden because old transmission lines and out of date generation equipment than the communities can bear. A number of systems are unable to extend electricity to critical need areas because of the lack of funding and load capacities.

The Alaska Village Electric Cooperative (AVEC) has made headway in about a third of the rural Alaska communities. Yet, it too, has been slowed tremendously by high operational costs of its existing system, lack of capital to expand, high cost to consumers and a lot of bureaucratic "red tape" to secure financing and subsidies to support the system.

A few years ago, the Bureau of Indian Affairs - Alaska Area Office advanced a comprehensive electrical generation and distribution development program

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CYRIL GEORGE — 1st Vice Chairman, Angoon
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525 VILLAGE STREET JUNEAU, ALASKA 99801 TELEPHONE (907) 586-2192

which would have affected over one hundred twenty five (125) villages throughout the State and costing an estimated total of twenty five million dollars. The program was advanced to Washington, D.C. and was never heard about again.

The legislature, through the years has developed legislation dealing with municipal problems. Bond Bank legislation has been thought of but not enacted. Last year, a Public Utitlity Revolving Loan Fund bill (HB611-Malone - referred Commerce/Finance) was presented but not enacted. No true concentration has been given to the problem of rural electification.

The problem still remains with us. The question is how to get a handle on it. Our efforts in the electrical field over the last year, have led us to the conclusion that the lack of electricity is one of the greatest stumbling blocks to improvement of community health, housing improvement and industrial development. It is clear that the problem is common to all segments of the community and is a matter of the "highest public interest" which cannot be met and solved by private enterprise within the limits of reasonable cost. Upon further analysis and assistance by legal counsel, it has been concluded that any tools to work with the electrical problem in rural Alaska must have certain characteristics inorder to be effective and successful. As a result of the current condition of the existing service and the limited revenue potential several factors were necessary;

(a) Financing at the lowest possible costs which requires authority to receive and utilize federal and state grants and loans (including R.E.A. financing) and a capability to issue securities, the income of which is not taxable to the holder to realize the interest savings inherent in tax exempt securities;

(b) It must be possible to construct and operate the systems on a larger than local basis because individually the village operations would not be feasible financially;

(c) Maximum operating flexibility in order that the diverse factors which exist and may arise in the future could be accommodated and maximum operating efficiency could be attained thus realizing such cost economies as are possible.

Under existing law part, but not all, of these objectives can be attained.

There are several limitations on electrical cooperatives organized under AS 10.25, the principal ones being structural and service limitations and the lack of authority to issue tax exempt securities. Municipal operation does not allow the scope necessary for a feasible project and, although the municipalities could enter into a cooperation agreement under the consitution and statues, no separate corporate entity to carry out the required functions could be created directly. This could be handled in a somewhat cumbersome manner, but because the fact that one of the areas which must be included is not a municipal corporation, this avenue is not open.

A CASE STUDY: THE SOUTHEASTERN SITUATION AND POSSIBLE SOLUTIONS.

The Tlingit and Haida Regional Housing Authority is working with various State and Federal agencies, the Tlingit and Haida Central Council, and the Rural Electrification Administration in a combined effort to bring up to standard the electrical utility systems in five rural southeast Alaska communities. The existing systems are, for the most part, virtually not systems at all; most are 35-40 years old and have had minimal maintenance and/or up-grading over the years. They are in such an advanced stage of dilapidation that completely new systems are necessary. To compound the problems, the communities have expanded and grown so that the existing diesel-electric sets are not capable of handling the increased loads. New homes have been built with many more either under construction or in the planning stage. Existing industry is expanding and new industry is being introduced. Elderly homes and clinics are in the development stage with construction to take place next year. The communities realize their problems. They know that new electrical systems are critically needed-virtually from the ground up! They also realize that it would be economically unfeasible for an individual community to attempt to finance and operate and maintain such an undertaking.

Inorder to provide the electrical systems, a vehicle which would allow operation and financing on a regional scale is needed. Such a vehicle needs substantial operating flexibility and the power to issue tax exempt securities, in addition to federal, state and conventional financing, inorder to achieve maximum economy in overhead and financing costs. The two legislative bills enclosed would allow creation of such a vehicle by in effect combining the virtues of a cooperative which can act on a greater than local basis but does not have the flexibility of a government unit

nor can issue tax exempt securities with that of a government unit which has the advantages noted but is limited in scope of local areas.

The first bill is a full authorization bill allowing creation of regional electric authorities inorder to satisfy geographic considerations by those entities which may create housing authorities. The authority is given broad operating powers comparable in scope to the powers of a municipality and is in fact made a political subdivision of the state as are the housing authorities. As a political subdivision, the power to issue securities which are tax exempt to the holder, thus making possible substantial interest savings, may be given and has been given by the proposed bill. The bill would not cause conflict with municipalities since their consent is necessary if the authority is to operate within the municipal boundaries. Nor does this bill conflict with any possible statewide financing vehicle which may be created in the future since any statewide vehicle would serve as a conduit of R.E.A. funds, state funds and to the extent of its financing, funds derived from sale of tax exempt securities. With its direct access however, it would be supplementary to a statewide agency should the financing of such agency not be large enough to meet the full needs.

The second bill is an authorization bill, which would allow municipalities, I.R.A. corporations and housing authorities to create, by agreement among themselves, associations which have separate corporate status and would have such functions within the broad limits of the bill (a-2, sewers and sewage treatment facilities, a-9, telephone systems, s-10, light power and heat, a-II water) as the parties to the agreement specify. This association is also a political subdivision with the right to issue tax exempt revenue bonds.

IN CONCLUSION...

On behalf of the communities in Southeastern Alaska and as an impetus for solution finding on a statewide level, the Tribal Council and the Authority intend to advance the attached bills for legislative consideration this year. Any comments you might have on the weakness or strengths, deficiencies or exurberances or even approach would be very much appreciated. Foremost, progress in any field of endeavor requires the work and support of many. Any assistance you might give to leveling out the "stumbling blocks"

in the development of electrical generation and distribution systems in rural Alaska would be very much appreciated.

Sincerely,

TLINGIT-HAIDA REGIONAL HOUSING AUTHORITY

Robert W. Loescher
Executive Director

encls.
cc. Mayor Frank See - Hoonah, Alaska
Mayor Cyril George - Angoon, Alaska
Mayor Frank Gordon - Kake, Alaska
Mayor John Skann - Klawock, Alaska
Mayor Dick Hotch - Klukwan, Alaska
Tlingit-Haida Central Council

RWL: lg

DRAFT BILL NO. 1

REGIONAL ELECTRICAL AUTHORITIES

18.55.997 FINDING AND PURPOSE The legislature finds that an acute shortage of adequate, safe, reliable electrical facilities exists in the rural areas of Alaska and that adequate electrical systems cannot be provided by the private sector due to inadequate projected system revenues and economic depression in certain areas. The legislature further finds that adequate housing, public facilities and economic development are heavily dependant upon adequate, safe and reliable electrical facilities. These conditions are inimical to the safety, health, welfare and prosperity of the residents of the state and to the sound growth of rural communities. The legislature further finds that a reasonable means of accomplishing the purpose of providing adequate, safe and reliable systems is the creation of regional electrical authorities. It is the purpose and intent of the legislature to provide a means whereby public corporations to serve as regional electrical authorities may be formed.

18.55.998 FORMATION OF AUTHORITIES Regional electrical authorities are created as provided in this section. When so created they may exercise all powers conferred by this chapter.

18.55.99 CREATION OF AUTHORITIES The associations authorized by AS 18.55.996 to form regional housing authorities are given the authority and power of a regional electrical authority. There is hereby created with respect to each of such associations a public body corporate and politic as a political subdivision of the State of Alaska to function in the operating areas of the individual associations.

(a) A regional electrical authority created by this chapter may not transact business or exercise powers granted to it until the governing body of the association has, by resolution, declared there is a need for the authority to function, given it the autho-

rity to function and named persons to serve as the board of commissioners of the authority. The number of members of the board of commissioners, their terms of office and the filling of vacancies in office shall be as determined by the governing body of the association by resolution.

(b) The regional electrical authority shall have jurisdiction to operate in all or part of the operating areas of the individual associations as determined by the governing body of the association by resolution, which resolution may be amended by the governing body by resolution to add to or subtract from the area served. The authority may operate within the corporate limits of a municipality only with consent, by resolution, of the governing body of the municipality except that where an authority is operating within an area which becomes part of a municipality or has a certificate of convenience and necessity from the Alaska Public Utility Commission to operate within an area which becomes part of a municipality no such consent shall be necessary.

(c) Any municipality or electrical cooperative or other provider of electrical service may transfer all or part of its electrical system including without limitation lands and rights in land, equipment and certificates or franchises required to operate in an area or areas to a regional electrical authority by resolution of the governing board upon such terms as are agreed upon with the authority providing that approval by resolution, of the board of commissioners of the authority is obtained. Except as may be provided otherwise by Federal law no other approvals to such transfers are required.

18.55.1000 TAX EXEMPTION (a) The exercise of the powers granted by this chapter will in all respects be for the benefit of the people of the state, for their well being and prosperity and for the improvement of their social and economic conditions and the authority is not required to pay a tax or assessment on any property owned by the authority.

(b) All obligations issued under this chapter are hereby declared to be issued by a body corporate and public which is a political subdivision of the state and for an essential public and governmental purpose, and the obligations, and the interest and income on and from the obligations, and all fees, charges, funds, revenues, income and other money pledged or available to pay or secure the payment of the obligations or interest are exempt from taxation except for transfer, inheritance and estate taxes.

(c) All obligations or liabilities of the regional electrical authorities shall remain their own and shall not be obligations or liabilities of the state.

18.55.1001 POWERS OF THE AUTHORITY Regional electric authorities have the following general powers.

(1) To adopt, alter and use a corporate seal.

(2) To prescribe, adopt, amend and repeal by-laws.

(3) To sue and be sued in its own name.

(4) To appoint officers, agents and employees and vest them with such powers and duties and to fix, change and pay such compensation for their services as the authority may determine.

(5) To borrow money, make and issue bonds, notes and other evidences of indebtedness of the authority for any of its corporate purposes, and to secure payment of its bonds and of any and all other obligations by pledge of or lien on all or any of its assets, contracts, revenue and income.

(6) To make and issue bonds for the purpose of funding, refunding, purchasing, paying or discharging any of the outstanding bonds or obligations issued or assumed by it or any bonds or obligations the principal or interest of which is payable in whole or in part from its revenue.

(7) To make and execute agreements, contracts and other instruments necessary or convenient in the exercise of its powers and functions, including contracts with any person, firm, corporation, government agency or other entity.

(8) To receive, administer and comply with the conditions and requirements respecting any appropriation, gift, grant or donation of property or money.

(9) To invest or reinvest any money or funds held by the authority in any obligations or other securities or investments in which banks or trust companies in the state may legally invest funds held in reserves or sinking funds or any funds not required for immediate disbursement, and in certificates of deposits or time deposits.

(10) To acquire, hold, use, lease, sell or otherwise dispose of any property of any kind, real, personal or mixed or any interest therein.

(11) To acquire, produce, develop, manufacture, use, transmit, distribute, supply, exchange, sell or otherwise dispose of electric energy and such other things, supplies and services as the authority shall determine necessary, proper, incidental or convenient in connection with its activities.

(12) To determine, fix, alter, charge and collect rates, fees, rentals and other charges for the use of the facilities of the authority or for the service, electric energy or other commodities sold, rendered, or furnished by it.

(13) To plan, design, construct, reconstruct, extend or improve any facilities necessary or convenient in connection with its activities.

(14) To enter on any lands, water or premises for the purpose of making surveys, soundings or examinations.

(15) To exercise the powers of eminent domain and declaration of taking in accordance with AS 09.55.250-09.55.460.

(16) To do all acts and things necessary, convenient or desirable to carry out the powers granted or implied in this chapter.

(17) To prescribe, adopt, amend and repeal such rules and regulations as may be necessary or proper for the exercise and performance of its powers and duties or to govern the rendering of service, sale or exchange of electrical energy.

18.55.1002 BONDS AND NOTES (a) The authority by resolution, may issue bonds and bond anticipation notes in order to provide funds to carry out and effectuate its purposes.

(b) The principal and interest on these bonds or notes is payable from authority funds. Bond anticipation notes may be payable from the proceeds of the sale of bonds or from the proceeds of sale of other bond anticipation notes or, in the event bond or bond anticipation note proceeds are not available, such notes may be paid from other funds or assets of the authority. Bonds or notes may be additionally secured by a pledge of a grant or contribution from the federal government, state government, or a corporation, association, institution or person, or a pledge of money, income, or revenues of the authority from any source.

(c) Bonds or bond anticipation notes may be issued in one or more series and shall be dated, bear interest at the rate or rates per year or within the maximum rate, be in the denomination, be in the form, either coupon or registered, carry the conversion or registration provisions, have the rank or priority, be executed in the manner and form, be payable from the sources in the medium of payment and place or places within or outside the state, be subject to authentication by a trustee or fiscal agent, and be subject to the terms of redemption with or without premium, as the resolution of the authority may provide. Bond anticipation notes shall mature at such time or times as may be determined by the authority. Bonds shall mature at such time, not exceeding 50 years from their date, as may be determined by the authority. Before the preparation of definitive bonds or bond anticipation notes, the authority may issue interim receipts or temporary bonds or bond anticipation notes, with or without coupons, exchangeable for bonds or bond anticipation notes when these definitive bonds or bond anticipation notes have been executed and are available for delivery.

(d) Bonds or bond anticipation notes may be sold in the manner, on the terms and at the price the authority determines.

(e) If an officer whose signature or a facsimile of whose signature appears on any bonds or notes or coupons attached to them ceases to be an officer before the delivery of the bond, note or coupon, his signature or facsimile is valid the same as if he had remained in office until delivery.

(f) In any resolution of the authority authorizing or relating to the issurance of bonds or bond anticipation notes, the authority has power by provisions in the resolution which will constitute covenants of the authority and contracts with the holders of the bonds or bond anticipation notes:

(1) to pledge to any payment or purpose all or any part of its revenues to which its right then exists or may thereafter come into existence, and the money derived from the revenues, and the proceeds of any bonds or notes;

(2) to covenant against pledging all or any part of its revenues, or against permitting or suffering a lien on the revenues or its property;

(3) to covenant as to the use and disposition of any and all payments of principal or interest received by the authority on mortgage loans, construction loans or other investments held by the authority;

(4) to covenant as to establishment of reserves or sinking funds and the making of provision for and the regulation and disposition of the reserves or sinking funds;

(5) to covenant with respect to or against limitations on a right to sell or otherwise dispose of property of any kind;

(6) to covenant as to bonds and notes to be issued, and their limitations, terms and conditions, and as to the custody, application and disposition of the proceeds of the bonds and notes;

(7) to covenant as to the issuance of additional bonds or notes, or as to limitations on the issuance of additional bonds or notes and the incurring of the other debts;

(8) to covenant as to the payment of the principal of or interest on the bonds or notes, as to the sources and methods of [illegible] of the bonds or notes with

respect to a lien or security, or as to the acceleration of the maturity of the bonds or notes;

(9) to provide for the replacement of lost, stolen, destroyed or mutilated bonds or notes;

(10) to covenant against extending the time for the payment of bonds or notes or interest on the bonds or notes;

(11) to covenant as to the redemption of bonds or notes and privileges of their exchange for other bonds or notes of the authority;

(12) to covenant to create or authorize the creation of special funds of money to be held in pledge or otherwise for operation expenses, payment or redemption of bonds or notes, reserves or other purposes, and as to use and disposition of the money held in the funds;

(13) to establish the procedure, if any, by which the terms of any contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent to amendment or abrogation, and the manner in which the consent may be given;

(14) to covenant as to the custody of any of its properties or investments, their safekeeping and insurance, and the use and disposition of insurance money;

(15) to covenant as to the time or manner of enforcement or restraint from enforcement of any rights of the corporation arising by reason of or with respect to nonpayment of any principal or interest of any mortgage loans or construction loans;

(16) to provide for the rights and liabilities, powers and duties arising upon the breach of any covenant, condition or obligation, and to prescribe the events of default and the terms and conditions upon which any or all the bonds, notes or other obligations of the authority become or may be declared due and payable before maturity and the terms and conditions upon which any such declaration and its consequences may be waived,

(17) to vest in a trustee or trustees within or outside the state such property, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of any trustee appointed by the holders of any bonds or notes, and to limit or abrogate the right of the holders of any bonds or notes of the authority to appoint a trustee under this chapter or limit the rights, powers and duties of the trustee;

(18) to pay the costs or expenses incident to the enforcement of the bonds or notes or of the provisions of the resolution or of any covenant or agreement of the authority with the holders of its bonds or notes;

(19) to agree with any corporate trustee which may be any trust company or bank having the powers of a trust company within or outside the state as to the pledging or assigning of revenues or funds to which or in which the authority has any rights or interest; the agreement may further provide for such other rights and remedies exercisable by the trustee as may be proper for the protection of the holders of any bonds or notes of the authority and not otherwise in violation of law and may provide for the restriction of the rights of an individual holder of bonds or notes of the authority;

(20) to appoint and provide for the duties and obligations of any paying agent or paying agents, or such other fiduciaries as the resolution may provide within or outside the state;

(21) to limit the rights of the holders of any bonds or notes to enforce any pledge or covenant securing bonds or notes;

(22) to make covenants other than and in addition to the covenants expressly authorized in this section, of like or different character, and to make such covenants to do or refrain from doing such acts and things as may be necessary, or convenient and desirable, in order to better secure bonds or notes or which, in the absolute discretion of the authority, will tend to make bonds or notes more marketable, notwithstanding that the covenants, acts or things may not be enumerated in this section.

18.55.1003 VALIDITY OF ANY PLEDGE The pledge of assets or revenues of the authority to the payment of the principal or interest of any obligations of the authority is valid and binding from the time the pledge is made and any such assets or revenues are immediately subject to the lien of the pledge without physical delivery or further act. The lien of any pledge is valid and binding against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether those parties have notice of the lien of the pledge. Nothing herein prohibits the authority from selling assets subject to any pledge, except that any sale may be restricted by the trust agreement or resolution providing for the issuance of the obligations.

18.55.1004 REMEDIES A holder of obligations or coupons attached to them issued under the provisions of this chapter, and a trustee under any trust agreement or resolution authorizing the issuance of the obligations, except as restricted by a trust agreement or resolution, either at law or in equity, may enforce all rights granted hereunder or under the trust agreement or resolution, or under any other contract executed by the authority under this chapter, and may enforce and compel the performance of all duties required by this chapter or by the trust agreement or resolution to be performed by the authority or by any officer of it.

18.55.1005 NEGOTIABLE INSTRUMENTS All obligations and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to any applicable provisions for registration.

18.55.1006 OBLIGATIONS ELIGIBLE FOR INVESTMENT Obligations issued under the provisions of this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest

funds, including capital in their control or belonging to them. These obligations may be deposited with any state or municipal officer of any agency or political subdivision of the state for any purpose for which the deposit of bonds, notes or obligations of the state is authorized by law.

18.55.1007 REFUNDING OBLIGATIONS (a) The authority may provide for the issuance of refunding obligations for the purpose of refunding any obligations then outstanding which have been issued under the provisions of this chapter, including the payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the obligations. The issuance of the obligations, the maturities and other details of them, the rights of the holders of them, and the rights, duties and obligations of the authority in respect of them are governed by the provisions of this chapter which relate to the issuance of obligations, insofar as those provisions may be appropriate therefor.

(b) Refunding obligations may be sold or exchanged for out standing obligations issued under this chapter and, if sold, the proceeds may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of the outstanding obligations. Pending the application of the proceeds of any such refunding obligations, with any other available funds, to the payment of the principal, accrued interest and any redemption premium on the obligations being refunded, and, if so provided or permitted in the resolution authorizing the issuance of the refunding obligations or in the trust agreement securing them, to the payment of any interest on the refunding obligations and any expenses in connection with the refunding, the proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America which mature or which will be subject to redemption, at the option of the holders of them, not later than the respective dates when the proceeds, together with the interest accruing on them, will be required for the purposes intended.

18.55.1008 CREDIT OF STATE NOT PLEDGED Obligations issued under the provisions of this chapter do not constitute a debt, liability or obligation of the state or of any political subdivision of the state or a pledge of the faith and credit of the state or any such political subdivision but are payable solely from the revenues or assets of the authority. Each obligation issued under this chapter shall contain on its face a statement that the authority is not obligated to pay it nor the interest on it except from the revenues or assets pledged for it and that neither the faith and credit nor the taxing power of the state or of any political subdivision of the state is pledged to the payment of the principal of or interest on the obligation.

Comm Consideration of HB26 Jan 31

The House Commerce Comm. will be considering H.B. 26 by Duncan regarding Regional Electric Authorities on Feb 6 at 8:00 AM in the committee room. If you wish to testify please contact the Kim Hutchinson at 465 3827 so that time can be made available for you.

Thank you
Bob Bradley
Chairman

Jim Duncan
cc Bob Loeber
APUC
Etc.

Jan Van Dort
#201 311 Franklin St.
Juneau AK. 99801

N.C. Banfield
#201, 311 Franklin St.
Juneau Alaska

Comm of Comm
Pouch D Mail
Juneau

HB

38

HB 38

Tape No.	Date
27	4/16
28	4/16
30	4/16
34	4/24

"An Act relating to motor vehicle insurance; and providing for an effective date,"

1/21/75

COMMITTEE REPORT

JUDICIARY

HOUSE

Mr. Speaker: Date 1/21/75

The Committee on Commerce has had HB 36 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

LAW OFFICES

KELLY & LUCE

A PROFESSIONAL CORPORATION

1015 WEST SEVENTH AVENUE

ANCHORAGE, ALASKA 99501

(907) 279-9571

BERNARD P. KELLY
L. AMES LUCE

KENAI OFFICE
HIGHLAND BUILDING
P.O. BOX 3762
KENAI, ALASKA 99611

April 10, 1975

Representative Bob Bradley
House of Representatives
House Commerce Committee Chairman
Pouch V
Juneau, Alaska 99801

Dear Brad:

This letter is a followup to let you know that I would like to testify for an hour on Wednesday, April 16, 1975, at your scheduled hearings on no-fault insurance.

Could you let me know right away what time this hearing is scheduled and at what time I could appear. You can call me collect if you desire because of the shortness of time. I need to know so I can schedule my time through the week.

Best regards.

Sincerely,

KELLY & LUCE

Bernard P. Kelly

BPK:kp

cc: Senator Chancy Croft

Car Driven by A Collides with Car Driven by B.
Each Driver Has Bodily Injury Damages of $10,000

UNDER PRESENT ALASKA LAW

	FACTS	RECOVERY
1.	A not negligent B not negligent	A recovers $0 B recovers $0
2.	A negligent B not negligent	A recovers $0 B recovers $10,000
3.	A not negligent B negligent	A recovers $10,000 B recovers $0
4.	A negligent B negligent	A recovers $0 B recovers $0

UNDER HB 38

1.	A not negligent B not negligent	A recovers $10,000 B recovers $10,000
2.	A negligent B not negligent	A recovers $10,000 B recovers $10,000
3.	A not negligent B negligent	A recovers $10,000 B recovers $10,000
4.	A negligent B negligent	A recovers $10,000 B recovers $10,000

35

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU ALASKA 99801

IPMAFUB ANC

2-044209C154332 04/14/75 1975 APR 14 PM 9 55

ICS IPMRWMB MIL

02256 NL MILWAUKEE WI 177 04-14 0FT

PMS JOHN J OSHEA, DIR

CTOR OF INSURANCE, PHONE AND MAIL
1310

STATE OFFICE BLDG

JUNEAU ALASKA 99811

URGENT

TO ALL MEMBERS OF THE NAIC

DEAR COMMISSIONER:

THE ADMINISTRATION, WHICH IS SCHEDULED TO TESTIFY ON APRIL 22 ON FEDERAL NO-FAULT LEGISLATION, IS RUMORED TO BE CONSIDERING A CHANGE IN ITS POSITION SUPPORTING STATE BY STATE ACTION. ADMINISTRATION SUPPORT OF SOME TYPE OF FEDERAL NO-FAULT LEGISLATION COULD ENSURE ENACTMENT.

REQUEST THAT YOU IMMEDIATELY CONTACT YOUR GOVERNOR AND OTHER APPROPRIATE PERSONS TO IMMEDIATELY MAKE PERSONAL CONTACT WITH ADMINISTRATION OFFICIALS (E.G., PRESIDENT FORD, DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET LYNN, SECRETARY COLEMAN (DOT), ATTORNEY GENERAL LEVI, AND SECRETARY HILL (HUD) VOICING OPPOSITION TO ANY FEDERAL NO-FAULT LEGISLATION.

THE SERIOUS CHALLENGE TO THE STATES INHERENT IN ANY FEDERAL NO-FAULT LEGISLATION IS SUBSTANTIAL. FURTHERMORE, IN PARTICULAR, THE OPERATIONAL DESIGN OF S.354 WOULD RENDER STATE INSURANCE DEPARTMENTS ACCOUNTABLE TO THE SECRETARY OF DOT, BYPASSING STATE GOVERNORS AND LEGISLATURES. THE ONEROUS BURDENS IMPOSED ON STATE INSURANCE DEPARTMENTS REPRESENT AN UNWARRANTED INTRUSION IN THE INTERNAL AFFAIRS OF SOVEREIGN STATES NOT ONLY IN A MANNER RENDERING INSURANCE COMMISSIONERS AGENTS OF THE FEDERAL GOVERNMENT, BUT ALSO IN A MANNER CREATING A FUNDAMENTAL AND DANGEROUS PRECEDENT FOR ALL AREAS OF STATE GOVERNMENT RESPONSIBILITY.

SINCERELY,

WILLIAM H HUFF III

COMMISSIONER OF INSURANCE (IOWA)

PRESIDENT OF THE NAIC

HB
46

HB 46

Tape No.
7

Date
2/27

Commerce Committee Hearing on HB 46
February 27, 1975

Members Absent: Kelley

Testimony
Mr. Fink - This bill would substantially reduce the service or interest charge on two kinds of accounts. First, revolving charge accounts such as Bankamericard. The current rate would be lowered from 18 to 15% for up to $300 worth, and to 12% above that. Second, contracts for trailers, snowmobiles, and cars are currently just under 20% under $1000 and 16% for over that amount. this would be lowered to 12% for amounts up to 10,000 dollars and to 8% for amounts over that. The act deals with personal items, items used by the family. Originally the bill was passed before in 1966, but was then amended and the interest rates added. At the time,Govenor Egan was in office, and he subsequently indicated he didn't understand that he had raised interest rates, he didn't intend to raise interest rates, he thought he was lowering them, because you can read from the kind of language you have here that when you take 5/6 of 1 percent etc. it's very confusing as to what you're talking about. The rate charged now by most credit card companies would have to be reduced by this bill. The State of Washington four years ago by initiative changed the rate to 12%. from 18%. At the time everyone said it was terrible, now bankamericard still works, the state has not been hurt. At this point Mr. Rhodes asked if we are takling about people who don't pay their bills on time on extended credit, is that it? No, this has to do with regular rates. But beyond the 30 days where they don't charge, their rates are too high, even though rising rates have been occuring for the last 20 years, its way past time we should be reversing that trend. Why? Because , 1) interest is one thing that shouldn't be allowed to go strictly on supply and demand bacause it accumulates in a small number of hands, and 2) many institutions are licensed by the state, if the state limits the number of institutions who can lend money by franchise, then they have the obligation to see that rates they charge aren't too high. Most states have limits.

Commissioner Motley reviewed the bill and said that basicly it reduced the interest rate from 18 to 15 and 12 depending. If one agrees with Mr. Fink's premise that interest rates fall within the need of regulating, we regulate to a certain extent, we set an upper limit. This bill has an upper limit. The question then becomes "what is an excessive profit?" We don't know he said. Another thing he wanted to mention, The impact of this bill may be a side effect that could restrict new credit or credit extension. He hoped to have for the committee a comprehensive breakdown of the state's policy and what they've done, for any subsequent hearings.

He thought we should examine the state of Washington's history on it. If you make a subsequent loan withing the parameters of 18% interest, there is Y amount of profit or moneys above expenses, when you reduce it to 15 or 12 % you reduce the number Y, it means that possiblibly you might have to tighten up your credit application procedures. He didn't know whether that could be quantified or not, that's why we need to research the State of Wash.'s experience. Another thing, he said, we in Alaska like to think that we are unique, and nine times out of 10 we're not, but one interesting thing he noted was that when Bankamericard got started here in Alaska it came in for some rough sledding right at the beginning. The reason it did was because the national trend that outfits like Bankamericard use to account for a lot of their profit is the interest charge, In Alaska it was found that we seemed to have two kinds of people, the people who paid right on time within 30 days, and people who never paid. There was very little middle ground. This middle group pays a service charge or interest after 30 days and that is where most of the profit is made.

Mr. Wolfe from Wolfe's Home Furnishings was here to speak for himself. From indications he has had from several companies that buy his paper,that if this bill passes, they would not only be very cautious on which accounts they do take, but that probably they would ask for a discount on his priciple paper so that in marginal prifits areas it would be discounted about 5%. He said he didn't beleive anybusiness could stand this. It is quite evident in Washington he said what has happened to stores, since the bill passed there. One of the largest appliance stores in the Northwest has over 6 stores and now they are completely out of business. They claim that this bill killed them. There are many other businesses that do not have the high profit items that would suffer tremendously if it should go into effect, not because they didn't get the interest, but because of the discount they had to take on the initial sale to get rid of the paper, and that would be particularly hard for the smaller businesses in our state. His business is basicly centered on installment contracts, probably 70% of his sales are involved in installment plans. There would be no more 60 to 90 day contracts. Mr. Fink asked him if he carried his own paper, and Mr. Wolfe answered that he did, whereupon Mr. Fink asked if he used Bankamericard and Mastercharge or does he sell his contracts to a bank or credit company? Mr. Wolfe answered that competitiondemands that they accept any kind of credit. These however are all at a discount to the dealer, they also have thier own contracts which he sells to the bank. Mr. Fink asked if they(Bankamericard etc.) discounted his paper of do they take an interest discount? Yes. So they are making 18% plus what they disount to the dealer.

Don Magnusson read testimony which is attached to this.

ALASKA MOBILE HOME ASSOCIATION
505 W. Northern Lights Blvd.
Anchorage, Alaska 99503

February 15, 1975

Rep. Bob Bradley
Chairman House Commerce Committee
Pouch V
Juneau, Alaska 99801

Re: HB-46

Dear Bob:

The Alaska Mobile Home Association is much alarmed over HB-46, which would limit the interest rates that could be charged by lending institutions for installment loans. The mobile home industry is totally dependent upon such loans for all sales of mobile homes.

We consider this bill extremely dangerous to us. We have been advised by our regular lending institutions that should this bill become law, that no loan funds would be available for mobile home loans. Available funds would be channeled to more advantageous loans, such as commercial and mortgage loans. It is clear that passage of this bill would put all the mobile home dealers in the state completely out of business.

At the present time mobile home sales are running at about 60 per month in Alaska. At $20,000 average price for unit, this amounts to a $14.4 million per year industry, and growing. Several thousand persons make their living in this industry, and thousands more depend on it for their housing. The consequences of bringing mobile home sales to a halt would be disastrous indeed.

Enclosed are a couple of sample letters from local banks. I suspect the same problems would be encountered by other sectors of the economy, such as automobiles recreational vehicles, boats, and snow machines.

The Alaska Mobile Home Association requests that this bill not be reported out of committee. We will have a representative present at your hearing at 8:00 A.M. Wednesday, February 26, in room 203 Assembly Building. If there is a change in this schedule please notify me.

Sincerely,

Ben Marsh

Bernard L. Marsh, Executive Secretary
Alaska Mobile Home Association

cc: Gale Kincaid, President AMHA

BLM/ap

PEOPLES BANK & TRUST

POUCH 7007 • 8TH AVENUE AND G STREET • ANCHORAGE, ALASKA 99510
TELEPHONE (907) 279-7511

GORDON W. CATCHING
VICE PRESIDENT AND LOAN OFFICER

February 4, 1975

Mr. Bernard L. Marsh, Executive Secretary
Alaska Mobile Home Association
505 W. Northern Lights Boulevard
Anchorage, Alaska 99503

Dear Mr. Marsh:

We write to convey our feelings concerning House Bill #46, and particularly the disruptive affect that we believe the passing of such a bill might have on the Alaskan mobile home industry.

As you know, most mobile home dealers conclude the financing of their sales in their shop and have an arrangement whereby they may sell that contract to their bank of account or to such other bank as may be interested in purchasing the deal. It is difficult for me to foresee the time when contracts would be attractive to banks if financed under the provisions as limited by House Bill 46. The provision under line 24, which limits those loans that exceed $10,000 to a rate that would give an effective yield of less than 8% simple, would, in my opinion, render such contracts unsaleable, at least for the foreseeable future.

We are always concerned about legislation that might quite possibly force legitimate lenders out of a field of activity. If this happens, it seems that the illegitimate sources of financing then have a field day. It seems almost unbelievable that an interest rate structure would be proposed for mobile home financing, for example, that would place the yield at a lower rate than is now enjoyed by those who extend FHA or VA insured loans.

Our concern is real. Not only for our own opportunities to provide financing at realistic rates, but for those sellers of goods who must have a place to finance the wares they sell.

Sincerely,

Gordon W. Catching
Vice President

GWC/pm

MEMBER FEDERAL DEPOSIT INSURANCE CORPORATION

A FULL SERVICE BANK

THE FIRST NATIONAL BANK OF ANCHORAGE

February 6, 1975

Mr. Bernard L. Marsh
Executive Director
Alaska Mobile Home Association
505 W. Northern Lights
Anchorage, Alaska 99503

Dear Mr. Marsh:

In answer to your letter dated February 5, 1975, concerning the HB 46, which was introduced by Rep. Tom Fink and assigned to the Commerce Committee for hearing, this bank has taken steps and contacted the bank's representative Mr. Ken Hume. From our interpretation of the Bill, we are definitely against this proposal and have taken steps to protect our interest.

Sincerely yours,

R. W. Shamburger
Vice President

RWS:jst

Mc Mahan's!

FURNITURE STORES

Mailing Address:
P. O. Drawer W
Santa Barbara, CA 93102
Phone: (805) 965-6591
Telex: 653-450

19 East Ortega Street Santa Barbara, California

February 19, 1975

Mr. Donald R. Magnusson
Executive Director
ALASKA RETAIL ASSOCIATION
c/o Baranof Hotel
Juneau, Alaska 99801

Dear Mr. Magnusson:

I am writing this letter to put forth our strenuous objections to any regulation by the State of Alaska to limit consumer financing interest rates to less than 18% Annual Percentage Rate on balances less than $1,000 and 12% Annual Percentage Rate for that portion of a contract over $1,000.

Our company has eight stores in California and one store in Anchorage, Alaska and has been in business under the same management since 1945. Approximately 80% of our business is done on credit which provides a much needed service to the community. During the years of 1969, 1970 and 1971 we operated one store in the city of Bremerton, Washington. We had done some market research and determined that Bremerton had a population profile which would be ideally suited to a credit furniture operation such as ours. Opening the store was an experiment to determine if the State would have opportunities for future expansion.

Sometime shortly after we opened our Bremerton store, the Washington State Legislature passed a law limiting the interest rate on consumer financing for our type of retailing to 12% Annual Percentage Rate. As you may know, the Unruh Act in the State of California provides for 18% APR for balances less than $1,000 and 12% APR for that portion of the amount financed which is over $1,000.

Even though this law was passed, we continued to operate our store in Bremerton hoping that we could still generate a return on investment sufficient to remain in business in that state. Unfortunately, due to the imposition of the interest limitation we had to close that store in January of 1972.

During part of the time, I personally was managing the Bremerton store so I can give you my experiences first hand which led to our decision to stop doing business in Washington.

We have three basic objections to any attempt to limit the interest rate, two of which have to do with the affects of such a law on the public and the third having to do with the ability of a business to generate the profit necessary to remain in operation compared to other alternatives.

Taking each objection individually:

1. Lowering the interest rate adds to inflation:

Enclosed are two advertising circulars from January of 1970 (they were picked at random - all others demonstrate the same point). The one with the lower prices is the circular which we distributed in California. The one with the higher prices is the one which we distributed in Bremerton, Washington. The sole reason for the difference in these prices was that it was an attempt on our part to compensate for the reduction in interest income by making a larger gross profit on the merchandise itself. I know for a fact that this practice was not limited to McMahan's and that other major chains and merchandisers followed exactly the same strategy. For example, one month we distributed a circular which was produced by a manufacturer. This circular was distributed not only by McMahan's but by other merchandisers in Washington and California and there was a similar price differential between the California prices and the Washington prices. Let me emphasize that this differential was not a result of the added freight since that difference was almost insignificant, but was solely an attempt on the part of retailers to offset the lower interest rates.

Note that the cash purchaser suffers since under current laws we cannot offer a discount for cash. Therefore, the cash purchaser ends up paying the higher price for the merchandise.

2. A limitation on the interest rate discriminates against the marginal credit buyer:

I suspect that one of the intentions of the Washington State Legislature was to give the credit purchaser a break; unfortunately, the exact reverse occurred in that the marginal credit buyer (the one who needs the credit the most but is the highest risk) is the most adversely affected.

Knowing that there is a diminished profit in the credit operation, one must become especially discriminating in granting credit. To give you a specific example: In December of 1970 we turned down 14.1% of the applicants for credit in the state of Washington and only 8.7% for all the credit applicants in the state of California. That is to say, that we had to turn down 5% more people in Washington due to the fact that we could take less risks in approving credit since there was a smaller margin between the cost of credit and credit income to offset credit losses due to bad debts.

3. A lower return on investment makes doing business in a state with an interest limitation less attractive than states with no such limitation:

To make this point clear, let me cite a specific example: Our store in Bremerton, Washington did approximately the same amount of business as our store in Simi, California and both stores in December of 1970 had an almost identical operating profit. We define operating profit as that profit before any credit operation is taken into consideration including interest income and interest expense.

The net profit, however, was significantly different in that the Bremerton store lost money whereas the Simi store made money. This made the state of Washington very unattractive to us.

Some other figures which may be of interest and underscore this problem are that the ratio in December of 1970 between interest income and accounts receivable was .8% in Bremerton whereas it was 1.3% in the California stores. Comparing interest income as a percentage of sales, it was 5.1% in Bremerton and 9.9% in Simi.

As I have mentioned, we closed our store in January of 1972 in Bremerton since our experiment did not prove to be a profitable one. I can honestly say that our only reason for closing that store was due to the interest rate ceiling. If the State of Washington were to repeal its interest rate limitation and enact a statute similar to the one in California, or the existing one in the state of Alaska, we would not hesitate to reopen stores in the state of Washington.

In closing the store, we had to layoff approximately ten employees and I feel that there are many people in the State and in Bremerton in particular, who are not able to take advantage of the service provided by a credit furniture business such as ours.

I understand that the Alaskan Legislature is considering lowering the interest rate from 18% down to 15%. Let me emphasize that any such readjustment would have consequences similar to those I have outlined above.

We are delighted to be doing business in Alaska and plan to open two additional stores within the next twenty-four months, one more in Anchorage and an additional store in Fairbanks. Certainly, if the consumer interest rate were lowered we would reconsider our decision and it is entirely possible that we would be forced to close our business in Anchorage just as we were forced to close our business in Bremerton, Washington. This would be extremely unfortunate not only from the company's standpoint but from the public's standpoint in that we would have to layoff the fifteen people whom we employee in our Anchorage store and the people who currently enjoy receiving credit from our company would probably not be served.

If I may be of any further help in answering any questions or providing more material, please don't hesitate to let me know since we are quite anxious that this regulation not be passed.

Very truly yours,

Scott Wilson

Scott Wilson
President

SW/gm
Enclosures

STATEMENT OF
DON MAGNUSON
EXECUTIVE DIRECTOR OF ALASKA RETAIL ASSOCIATION

HOUSE BILL 46

HOUSE BILL 46 WOULD AMEND THE ALASKA RETAIL INSTALLMENT SALES ACT BY REDUCING THE ALLOWABLE FINANCE CHARGE THAT MAY BE MADE ON ALL RETAIL INSTALLMENT SALES. WE ARE OPPOSED TO HOUSE BILL 46 FOR TWO PRIMARY AND INTERRELATED REASONS.

FIRST, AS A DEVICE TO LEGISLATE EFFECTIVELY THE PRICE OF CREDIT IN AN AREA WHERE OTHER GOODS AND SERVICES ARE SOLD, IT IS ILLUSORY AT BEST. UNLESS THE LEGISLATURE WANTS TO EMBARK ON A COMPREHENSIVE PROGRAM OF SETTING PRICES ON ALL OF THE MERCHANT'S GOODS AND SERVICES, ANY RATE CEILING ON RETAIL CREDIT WOULD SIMPLY RESULT IN AN EQUIVALENT INCREASE IN THE PRICE OF OTHER, UNREGULATED, GOODS AND SERVICES. THE PREVALENT RETAIL RATE ESTABLISHED IN THE COMPETITIVE MARKET IN ALASKA AND MOST STATES IS 1-½% PER MONTH. THIS IS TRUE EVEN THOUGH SOME STATES, SUCH AS NEVADA, UTAH, ILLINOIS, KENTUCKY, OKLAHOMA AND MAINE, EITHER ALLOW A HIGHER CEILING THAN 1 - 1/2% OR IMPOSE NONE AT ALL. COMPETITION IN THIS AREA HAS WORKED AS AN EFFECTIVE DETERMINANT OF RATE FOR THE ULTIMATE BENEFIT OF THE CONSUMER.

FUNDAMENTALLY, YOU CANNOT SET THE PRICE OF SUCH CREDIT EFFECTIVELY WITHOUT A CORRESPONDING INFLUENCE UPON THE PRICE OF OTHER GOODS AND SERVICES OFFERED BY THE RETAILER.

SECONDLY, WE FEEL YOU SHOULD BE INFORMED THAT MOST RETAILERS ARE NOT MA 'G A PROFIT ON THEIR FINANCE CHARGE REVENUES. CREDIT IS EXTENDED AS A MEANS OF INCREASING SALES VOLUME AND TO MEET COMPETITION.

HOWEVER, CONTRARY TO POPULAR IMPRESSION, REVENUE GENERATED BY FINANCE CHARGES IS NOT A "BOTTOM LINE" NET PROFIT FIGURE. SUCH REVENUE IS A GROSS RECEIPT ITEM AGAINST WHICH RETAILERS MUST DEDUCT SUCH CREDIT RELATED COST ITEMS AS (A) THE COST OF BORROWING MONEY FROM FINANCIAL INSTITUTIONS; (B) NEW ACCOUNT DEVELOPMENT AND CREDIT INVESTIGATIONS; (C) PAYROLL; (D) RENT; (E) SUPPLIES; (F) COMPUTERS AND (G) COLLECTION COSTS AND WRITE OFF ON UNCOLLECTIBLE ACCOUNTS. NUMEROUS ECONOMIC STUDIES (SOME OF WHICH CAN BE MADE AVAILABLE TO YOU) CLEARLY SHOW THAT FOR MOST RETAILERS SUCH COSTS EXCEED THEIR FINANCE CHARGE REVENUES. HB 46 WOULD FURTHER REDUCE SUCH REVENUES SUBSTANTIALLY BELOW THE EXISTING COST STRUCTURE.

THE STATE OF WASHINGTON OFFERS A FAIR EXAMPLE OF THE ADVERSE ECONOMIC CONSEQUENCES THAT FOLLOW AN ARTIFICIALLY IMPOSED LOW RATE CEILING. IN THE GENERAL ELECTION OF NOVEMBER 1968, WASHINGTON VOTERS APPROVED A MEASURE SIMILAR TO THAT SET FORTH BY HB 46. THEREAFTER, IN 1970, THE GRADUATE SCHOOL OF BUSINESS OF THE UNIVERSITY OF WASHINGTON PUBLISHED A REPORT ON THE IMPACT OF THIS INITIATIVE UPON WASHINGTON'S ECONOMY. THIS REPORT SERVES AS EVIDENCE THAT THE VOTER'S PREFERENCE FOR A LOW RATE (WHICH SOUNDS AWFULLY APPEALING ON ITS FACE)

DID NOT GIVE HIM THE BENEFIT DESIRED, E.G. A LOW COST OF CREDIT. ALTHOUGH RETAILERS' RESPONSES VARIED SOMEWHAT, IT WAS CLEAR THAT THE MAJORITY OF THEM REACTED BY RAISING PRICES ACROSS THE BOARD OR ON CREDIT-SENSITIVE ITEMS. THE REPORT STATES ON PAGE 24-25 THAT:

". . . THE MAJORITY (56%) OF RETAILERS SAID THAT THEY RAISED PRICES ON ALL MERCHANDISE ON THE AVERAGE OF 5% IN RESPONSE TO THE PASSAGE OF THE INITIATIVE 245."

FURTHER:

". . . SIXTY-FOUR PERCENT OF FURNITURE AND APPLIANCE DEALERS SAID THAT THEY RAISED PRICES ON 'CREDIT-SENSITIVE' ITEMS. THIRTY-ONE PERCENT OF DEPARTMENT STORES SAID THAT THEY DID THE SAME.""

IT WAS ALSO SIGNIFICANT FROM THIS REPORT THAT THERE WAS A TIGHTENING OF CREDIT ON THE LOWER END OF THE ECONOMIC SCALE WHICH DURING THESE TIMES WOULD IMPOSE SUBSTANTIAL PROBLEMS FOR LOW INCOME CONSUMERS. I UNDERSTAND THAT OTHER ECONOMIC STUDIES SUCH AS PROFESSOR GENE LYNCH'S STUDY ON THE ARKANSAS SITUATION, AND PROFESSOR STUCKI'S REPORT IN UTAH SUBSTANTIATES THE UNIVERSITY OF WASHINGTON'S REPORT.

YOU MIGHT ALSO BE INTERESTED IN THE CONGRESSIONALLY FUNDED STUDY THAT WAS PUBLISHED BY THE NATIONAL COMMISSION ON CONSUMER FINANCE ENTITLED "CONSUMER CREDIT IN THE UNITED STATES". ALTHOUGH THIS STUDY RELATED TO THE ENTIRE BROAD SPECTRUM OF

CONSUMER CREDIT, IT IS SIGNIFICANT THAT AS TO THE ISSUE RAISED BY HB 46, THIS COMMISSION STATED THE FOLLOWING ON PAGE 107 OF ITS REPORT:

> "THERE IS NO LOGICAL REASON TO SELECT ANY TYPE OF PRODUCT OR SERVICE SOLD BY A RETAILER AND LEGALLY REQUIRE IT TO BE SOLD AT A LOSS. WHEN CREDIT IS SELECTED AS THE REQUIRED LOSS LEADER, THE BURDEN OF SUBSIDY FALLS PRIMARILY ON CASH BUYERS, SOME OF WHOM MAY HAVE BEEN UNABLE TO OBTAIN CREDIT. THUS STATE LAWS THAT PUT THE PRICE OF CREDIT BELOW COMPETITIVE RATES ARE FORCING BOTH THE WEALTHY AND THE LESS AFFLUENT, WHO DO NOT USE OR CANNOT OBTAIN CREDIT, TO SUBSIDIZE THE USE OF CREDIT BY OTHERS. SUCH LAWS ALSO ATTEMPT TO DISCOURAGE THOSE WHO CAN OBTAIN CREDIT FROM USING CASH TO BUY GOODS. IN THE COMMISSION'S VIEW, LOWERING RATE CEILINGS ON REVOLVING CREDIT BELOW 1-1/2% PER MONTH HAS ON BALANCE BEEN CONTRARY TO THE BEST INTERESTS OF CONSUMERS."

THE CENTRAL POLICY ISSUE THEREFORE IS WHO SHOULD PAY FOR THE COST OF EXTENDING CREDIT. WE BELIEVE THAT THOSE WHO UTILIZE THE SERVICE OF CREDIT SHOULD BEAR THE COST BURDEN. THIS OBJECTIVE HAS BEEN LARGELY REALIZED TODAY IN ALASKA. HB 46 COULD, IN LIGHT OF NUMEROUS ECONOMIC STUDIES, SHIFT THAT COST BURDEN TO THOSE WHO DO NOT WISH TO PURCHASE ON CREDIT.

CREDIT BUYING TODAY IS AN ESTABLISHED FACT OF ECONOMIC LIFE. IT HAS BEEN A MAJOR FACTOR BY WHICH SUBSTANTIAL ECONOMIC

GROWTH HAS BEEN ACHIEVED IN THIS COUNTRY. THE SYSTEM CERTAINLY HAS ITS CRITICS AND INDIVIDUAL EXAMPLES OF CREDIT-ABUSE CAN BE CITED. HOWEVER, WE BELIEVE THAT BEFORE THIS COMMITTEE ESTABLISHES A LOW PRICE CEILING FOR CREDIT, WITH ITS ATTENDANT ADVERSE CONSEQUENCES, IT OUGHT TO BE AWARE OF THE SUBSTANTIAL BODY OF ECONOMIC OPINION DEALING WITH THE ADVERSE RESULTS GENERATED BY LOW RATE CEILINGS.

IN CONCLUDING, I HAVE TAKEN THE LIBERTY OF ATTACHING TO MY STATEMENT A SUMMARY STATEMENT AUTHORED BY PROFESSOR LYNCH OF THE UNIVERSITY OF ARKANSAS ON THE ECONOMIC IMPACT OF THE WASHINGTON RATE CEILING UPON THAT STATE'S ECONOMY.

EFFECTS OF INITIATIVE 245:
Summary Statement

ADOPTION OF INITIATIVE 245 HAS IMPOSED MAJOR PENALTIES: UPWARD PRICE PRESSURE, REDUCED CREDIT AVAILABILITY, SMALL MERCHANT PROFIT SQUEEZE, AND LOSS OF BUSINESS FROM THE STATE.

The maximum one percent monthly service charge imposed on various types of consumer credit by passage of Initiative 245 in November 1968 is indefensible both in theory and in fact. The National Commission on Consumer Finance, in an exhaustive study to the President and to Congress stated, "Forced reduction in the decreed maximum rate on revolving credit to 10 percent per annum (as in Arkansas) or from 1½ percent to 1 percent per month (as in Minnesota, ... and Washington) have a twofold effect on consumers. First, credit sellers may make less credit available ... or second, they may try to make up the loss in income from some other source."[1] The Commission further noted that, "... on balance, rate ceilings are undesirable when markets are reasonably competitive."[2] With over ninety commercial banks and literally hundreds of credit unions, finance and small loan companies, and retail outlets providing credit in the State of Washington, competition appears to be adequate.

THE RESERVE OF SMALL ADJUSTMENTS TO 245 HAS BEEN EXHAUSTED.

Specific impacts of Initiative 245 are documented in a study published by the University of Washington in 1970[3] and are supported by current information. Firms report discontinuing free check cashing; charging for deliveries or increasing charges; instituting fees for layaways; discontinuing layaways; or discontinuing in Washington while maintaining service in Oregon and Idaho; exacting minimum service charges on charge accounts; discontinuing open charge accounts; and reducing employee discounts on major appliances. While in some cases services once available to consumers have been completely eliminated, in other cases the credit buyer has benefited from Initiative 245 by forcing the costs of miscellaneous services to bear directly on all users. Undoubtedly too, lenders subject to the rate limitation have become more efficient in administering credit. Certainly many small merchants, as reported in the attached Lynch study, have found temporary relief by accepting one or more of the bank credit card plans.[4]

MAJOR IMPACTS OF 245 ARE BOTH INEQUITABLE AND DETRIMENTAL.

The U of W study noted the following, "... the burden of supplying a service (credit), the cost of which may exceed the price that can be charged for it, seemed to have fallen on the merchants and possibly the banks. Banks and merchants have taken many of the small steps that can be taken but their basic problem is still unresolved because its solution requires more than that. The rate ceilings will have to be raised or banks and merchants will have to reduce costs and/or increase revenues from other sources."[5] And the National Commission report flatly states, "The effect of restrictive rate ceilings is to limit the number of borrowers who qualify for legal credit and reduce the amount of credit supplied. Sales credit rate ceilings may cause creditors to shift a portion of the finance charge into the cash price ..."[6] The U of W survey identified not only an increase in rejection rates on new credit applicants at banks, retailers, and auto dealers; a forced move of financing to banks, credit unions, and small loan companies; but also an increase in cash prices to maintain <u>total</u> revenue from sales and the provision of credit.[7] The Commission

report states, "Retailers must make a profit on their total sales of goods and services (including credit services) to remain in business. The only real issue is who should bear these credit costs -- credit buyers or cash buyers."[8] Credit operations of retailers, at best, typically do not cover costs. A Touche, Ross, Bailey, and Smart 1967 report on consumer credit costs in Washington once again verified that fact -- not only for thirty-day accounts but also for revolving credit and long-term installment accounts.[9] Obviously, provision of credit by retailers is considered an indispensible sales tool. At the same time, further restricting rates chargeable, when not offset by operating efficiencies and service repricing, must be made up by higher sales prices -- not just for credit customers but all customers, including those increasingly unable to obtain credit. The U of W survey reported, "The majority of retailers ... raised prices on all merchandise on the average of 5 percent in response to the passage of Initiative 245."[10] Automobile dealers continue to maintain gross margins by hiking all auto prices as revenue from financing has declined;[11] a major retailer continues to charge $5.00 more for appliances in Washington than in Oregon and Idaho. Is there any compelling reason why the Washington experience should differ from that of other states with artificially low rates? In an eight-state price survey in 1968, Arkansas (which has a 10 percent limit) was found to have higher cash prices than neighboring states which have 18 percent limits. The average markup appeared to be about 5 percent.[12] This is not inconsequential. Sales volume of Washington retailers typically offering credit has been estimated at just under $5 billion in 1972. If only half of these had raised their prices 5 percent the added cost to the consumer was close to $120 million.[13]

CONDITIONS HAVE NOT STABILIZED, BUT CONTINUE TO DETERIORATE.

With every year that has passed since adoption of Initiative 245, the twelve percent limit imposes further hardship in the face of rising costs. The prime rate, at 6¼ percent in December 1968, now stands at 9¾ percent. With inflation expected to be a continuing problem, there is every reason to expect money costs to retailers -- and to banks -- will continue at relatively high levels. The cost squeeze intensifies as operating efficiencies are more difficult to realize; as service repricing options are exhausted; as flexibility to raise cash prices further is limited. Particulary impacted are the consumer who can least afford to do without credit and the small retailer whose cash price ceiling is set by the majors or border-state competition.[14]

Credit card competition among banks has lowered merchant discounts since 1968. Increasingly, however, the small merchant faced with continuing cost hikes is finding Washington banks can pare discounts no further with service charges restricted. Either merchants discontinue the credit option or send their business out-of-state, where low discounts are offset against higher service charges. While not conclusive, evidence suggests Initiative 245 is not only limiting credit availability and raising cash prices, but also restricting the growth of business in the state. Between 1968 and 1971, the number of auto dealers in Washington fell 7 percent while the number in Oregon fell only 2 percent and in Idaho remained even. Excluding dealers in King and Snohomish Counties (which suffered a recession in 1969 and 1970) the number still fell by 7 percent. For home furnishings dealers, the number in Washington (excluding King and Snohomish Counties) remained barely level, while climbing 2 percent in Oregon and 3 percent in Idaho.[15]

FOOTNOTES

1. Report of the National Commission on Consumer Finance, Consumer Credit in the United States, U.S. Government Printing Office, December 1972, p. 105.

2. Ibid., p. 108.

3. Graduate School of Business Administration, University of Washington, The Impact of A Consumer Credit Interest Limitation Law, Washington State: Initiative 245, Seattle, 1970, pp. 20-25.

4. Lynch, Gene C., The Economic Impact of a Twelve Per Cent Finance Charge Ceiling, University of Arkansas, Fayetteville, 1973, p. 8.

5. University of Washington, Impact of Consumer Credit, pp. 25, 26.

6. National Commission, Consumer Credit, p. 113.

7. University of Washington, Impact of Consumer Credit, pp. 20-25

8. National Commission, Consumer Credit, p. 105.

9. Touche, Ross, Bailey and Smart, Study of Consumer Credit Costs in Retail Stores in Washington, Washington Retail Council, 1967.

10. University of Washington, Impact of Consumer Credit, pp. 24, 25.

11. Washington State Automobile Dealers Association.

12. Lynch, Economic Impact, p. 10.

13. Derived from: State of Washington Department of Revenue, Quarterly Statistical Report of the Revenue from Excise Taxes, May 1973, pp. 10, 11.

14. Lynch, Economic Impact, p. 11.

15. Derived from: U.S. Department of Commerce, County Business Patterns, Washington, U.S. Government Printing Office, 1968, 1971.

ALASKA RETAIL COUNCIL

- - -

ANALYSIS OF CONSUMER CREDIT COSTS IN RETAIL STORES IN ALASKA

- - -

AUGUST, 1968

SCHMITZ & KLINE
CERTIFIED PUBLIC ACCOUNTANTS
206 NATIONAL BANK OF ALASKA BLDG.
JUNEAU, ALASKA 99801

August 21, 1968

Alaska Retailers Association
Anchorage, Alaska

Gentlemen:

We have completed our analysis of the costs of consumer credit in retail stores in Alaska. The analysis is based on a study of costs of consumer credit for the State of Washington for the fiscal year ended January 31, 1966 prepared by Touche, Ross, Bailey & Smart, a national accounting firm.

Our analysis used the Washington data as compiled and set forth in the enclosed report, converting the data to costs and conditions faced by retail merchants doing business in Alaska. For comparative purposes we have included statistical results of the Washington study with this analysis. We used cost conversion methods which we deemed conservative and appropriate in setting forth costs of credit in total and by type of credit account.

In our opinion, based on the data compiled by Touche, Ross, Bailey & Smart of the costs of consumer credit in retail stores in Washington, the attached exhibits and report comments fairly present an analysis of credit costs for retail merchants doing business in Alaska.

Schmitz & Kline

Certified Public Accountants

ALASKA RETAIL COUNCIL

REPORT ON CONSUMER CREDIT COSTS IN RETAIL STORES IN ALASKA

CONCLUSION:

The conclusion to be drawn from the analysis of consumer credit costs in Alaska is that providing credit to the consumer is costly. This conclusion is in direct conflict with the common opinion that extending credit is a profitable business for the retailer. As set forth in Exhibit I, the average cost of credit per $100.00 of credit sales is $3.15 in excess of revenues derived from credit charges. Credit costs for Alaska are approximately 19% higher than Washington's.

SCOPE:

The basic study prepared by Touche, Ross, Bailey & Smart was conducted on three main types of accounts:

(1) Regular (30 day) charge account -

This category comprises those customer accounts on which no service charges are assessed, but which require payment of the account balance within 30 days of billing date.

(2) Revolving credit accounts -

This category includes the many multi-transaction, small unit sales types of accounts that permit payment of the account balance over a period of several months. Accounts offering an option payment feature, whether used or not, are included under this category. Service charge rates used by the participants were consistent, with a 1-1/2% charge on the outstanding account balance at a given day of the month.

(3) Long-term installment accounts -

This category includes several types of accounts which are basically similar as to length of credit repayment terms, unit sales activity and the size of each transaction. Included in this category are special promotional 30-60-90 day accounts for which there are no service charges. For the other types of installment accounts the number of transactions handled per year is significantly lower while the size of the average transaction is significantly higher. The length of the repayment period

SCOPE (continued):

is also generally longer than that for a revolving credit account. The service charges made for installment accounts were not uniform.

METHODOLOGY:

The study criterion, as used by Touche, Ross, Bailey & Smart for the Washington study, was to identify as credit costs only those costs which the store could eliminate if the credit function were discontinued, assuming no change in total store sales volume. By applying this criterion, expenses of providing services to credit customers were segregated from those of providing services available to both cash and credit customers. Total identified credit costs were then allocated by major type of credit account. Service charge revenues were also segregated by account type to permit comparision of service charge revenues with credit costs by major account type.

COST GROUPING:

In their Washington study, Touche, Ross, Bailey & Smart grouped credit costs in seven categories. The first three (new account costs, account servicing costs and account collection costs) represent those costs most directly identifiable with the credit operation. They represent the costs of obtaining new customer accounts, the costs of the day-to-day servicing of active customer accounts and the costs of the collection effort required on accounts with payments in arrears. Lists of items included in these three major categories are presented in Appendix A.

The fourth category represents interest on the capital required to finance customers' outstanding receivable balances. This is a direct cost for without credit there would be no receivable balances to finance and, therefore, no need for capital to finance them. An 8% rate was used in determining study results. This is considered a conservative rate for cost of capital. Since the actual cost of capital for the typical merchant is frequently higher than 8%, the "excess of cost over revenue" has been recomputed at the bottom of Exhibits I and II, using cost of capital rate of 10%, 11% and 12% for Alaska.

The fifth category is space and equipment costs. It depicts the cost of space used for credit activities as well as the cost of office equipment used in the credit operation. The sixth category covers the cost of the additional sales people required to handle credit customers. This additional cost results from the added sales check preparation time and credit authorization work necessary when a sale is made on credit rather than cash. The

COST GROUPING (continued):

seventh category (management expenses) represents that portion of general management expenses assignable to the credit operation. It represents the costs of service provided to the credit department by various other service activities within the store.

Although not incorporated in the study results, an additional cost category could be termed "other credit costs". This category is used to assure recognition of the fact that store costs, in addition to those specifically identified in the seven categories listed, are affected by the existence of the credit function in a store. The existence of credit affects the entire character of the store and of its expense structure. It results in the incurrence of additional costs, some of which are not susceptible to specific measurement. Among these "other credit costs" are the costs of handling extra merchandise returns and the extra deliveries required by credit customers as compared to cash customers. These and certain other costs are definitely credit costs since they contribute toward increasing total store operating costs. While recognition of their existence is important in assessing the costs of credit operations, no specific amounts are shown in study results for these costs since they could not be measured with the necessary degree of accuracy.

CONVERSION FACTORS AND ASSUMPTIONS:

In order to convert the data developed by the Washington study to Alaska conditions the following conversion factors and assumptions were used -

(1) Service Charge Revenues -

Service charge revenues for Washington and Alaska were set forth as both being the same per $100.00 of sales. Both Washington and Alaska have the same service charge maximums which are allowed by law. In discussing this subject with personnel with national retail stores operating in Anchorage, they confirmed that the rates charged in their Alaska stores were the same as those charged in the Washington stores.

It would seem valid to assume that if anything, service charge revenues per $100.00 of credit sales would be lower in Alaska than in Washington. Long-term credit to consumer for merchandise purchases is relatively new and it is probable that Alaska merchants as a whole do not charge for credit or extend the length of repayment over as long a period of time as Washington merchants. An example is a Juneau department store which does not have a service charge for credit but will probably start charging for credit in order to extend account repayment over a longer period of time, thus being more competitive with other merchants.

CONVERSION FACTORS AND ASSUMPTIONS (continued):

(2) Credit Costs -

(a) All credit costs as determined by the Washington study were reduced 15% in order to reflect higher sales prices of individual merchandise in Alaska. Since costs are presented in relation to $100.00 of sales, it follows that there would be less units sold in Alaska per $100.00 of sales and therefore less credit costs associated therewith because of the fewer transactions involved. The one cost exception to this would be the cost of interest (capital) which would have no relation to the number of transactions involved in $100.00 of sales.

The 15% sales price differential was arrived at by utilizing three sources. The first source was comparing individual sales prices of merchandise sold by a national retailer in its Anchorage store with its Seattle area stores; the second source was price statistics for cities in Alaska published by the U.S. Department of Labor, Bureau of Labor Statistics; the third source was the opinion of individual merchants involved in retail sales.

(b) All costs of credit except interest as determined by the Washington studies were adjusted upwards to reflect higher salaries and operating costs in Alaska. Salaries are assumed to be 35% higher in Alaska than in Washington for comparable positions. This assumption is supported by (1) the Anchorage store of a national retailer which gives an automatic 40% raise to all personnel transfering from Washington to Anchorage as a "cost of living" allowance (2) a Juneau merchant's salaries which are 35% higher than the average of salaries paid to department store personnel as determined by national statistics (3) the experience and opinions of various Anchorage retailers whose opinions were solicited in this regard.

Operating costs other than salaries were considered to be 16% higher than comparable Washington costs. These higher costs were derived from two sources (1) from an analysis of the operating costs of the Anchorage store of a national retailer as compared to its Washington stores (2) from statistics set forth in the Indexes of Intercity Differences in the Cost of Equivalent Goods and Services for various Alaskan cities as compared with Seattle, Washington, published by the U.S. Bureau of Labor Statistics.

CONVERSION FACTORS AND ASSUMPTIONS (continued):

In order to convert Washington costs of credit to Alaska costs, an assumption had to be made as to what percentage salaries were to total operating costs when related to costs of credit. In reviewing several retailers operating statements we found that salaries comprised from one-half to two-thirds of total operating costs. In reviewing the expense components of the main groupings of costs of credit (See Appendix A) we came to the conclusion that salaries comprised at least two-thirds of the total credit costs. When the increased salary costs (35%) are combined with increase operating costs (16%) the weighted average increase is 29% for those cost groupings that are composed of both salaries and other operating expenses.

(c) Interest costs for the average of accounts receivable investment were computed at 8% instead of the 6% used for the State of Washington. Most short-term business loans in the State of Alaska are made at 8% and for the present, 6% loans (with rare exceptions) are a thing of the past. Actually, investment in accounts receivable balances could be termed capital investment and when considered in this light, 8% is a low return on investment.

Using the above factors and assumptions, Washington credit costs were converted to Alaska costs as follows:

New Accounts Costs - Reduced 15% for unit sales price differential and the balance increased 29% for higher salaries and other operating costs;

Account Servicing Costs - Reduced 15% for unit sales price differential and the balance increased 29% for higher salaries and other operating costs;

Account Collection Costs - Reduced 15% for unit sales price differential and the balance increased 29% for higher salaries and other operating costs;

Interest Costs - Increased 33-1/3% (From 6% to 8%);

Credit Space and Equipment Costs - Reduced 15% for unit sales price differential and the balance increased 16% for other operating costs increases;

Additional Salespersons' Costs due to Credit - Reduced 15% for unit sales price differential and the balance increased by 35% for higher salaries;

Management - Reduced by 15% for unit sales price differential and the balance increased 35% for higher salaries.

LIMITATIONS:

Because of a shortage of available time, personnel and cost limits, we were unable to conduct an Alaskan study such as that prepared by Touche, Ross, Bailey & Smart for the Washington Retail Council. Because of the above mentioned limitations, we deliberately approached the conversion factors and assumptions in a conservative manner. Because of our conservative approach, we believe that the factors and assumptions utilized to convert Washington costs of credit to Alaskan costs of credit are valid and present fairly the cost of credit in Alaska.

In addition to the Washington study, there are also available costs of credit studies prepared for the Maryland Council of Retail Merchants, Inc. and one for the National Retail Merchants Association. All of the above studies support the conclusion that providing credit to the consumer is costly.

EXHIBIT 1

ALASKAN RETAIL COUNCIL

REPORT ON CONSUMER CREDIT COSTS IN RETAIL STORES IN ALASKA

COSTS AND SERVICE CHARGES FOR CREDIT ACTIVITY

	Credit activity per $100 of credit sales			
	All accounts	Regular (30-days) accounts	Revolving credit accounts	Long-term installment accounts
CREDIT SALES	$100.00	$100.00	$100.00	$100.00
SERVICE CHARGE REVENUES	$ 4.40	$ .01	$ 6.97	$ 6.06
CREDIT COSTS:				
New account	$ .48	$ .23	$ .46	$ .93
Account servicing	2.13	2.33	2.08	1.93
Account collection	1.32	.85	1.65	1.33
Interest @ 8% of average accounts receivable investment	2.89	1.27	3.45	4.45
Credit space and equipment	.15	.20	.16	.05
Additional salespersons' costs due to credit	.18	.20	.18	.14
Management	.40	.34	.44	.42
TOTAL CREDIT COSTS	$ 7.55	$ 5.42	$ 8.42	$ 9.25
EXCESS OF COST OVER REVENUE	$ 3.15	$ 5.41	$ 1.45	$ 3.19
EXCESS ASSUMING COST OF CAPITAL INVESTMENT (INTEREST) IN ACCOUNTS RECEIVABLE BALANCE AT:				
10%	$ 3.88	$ 5.73	$ 2.32	$ 4.31
11%	$ 4.24	$ 5.89	$ 2.75	$ 4.86
12%	$ 4.60	$ 6.05	$ 3.18	$ 5.42

EXHIBIT II

ALASKAN RETAIL COUNCIL

STUDY OF CONSUMER CREDIT COSTS IN RETAIL STORES IN ALASKA

TOTAL CREDIT COST COMPARISION - CREDIT ACTIVITY PER $100 CREDIT SALES

	Alaska Participants	Washington Participants
CREDIT SALES	$100.00	$100.00
SERVICE CHARGE REVENUE	$ 4.40	$ 4.40
CREDIT COSTS:		
New account	$ .48	$ .43
Account servicing	2.13	1.90
Account collection	1.32	1.17
Interest @ 8% (6% for Washington) of average accounts receivable investment	2.89	2.17
Credit space and equipment	.15	.15
Additional salespersons' costs due to credit	.18	.15
Management	.40	.35
TOTAL CREDIT COSTS	$ 7.55	$ 6.32
EXCESS OF COST OVER REVENUE	$ 3.15	$ 1.92

STUDY OF CONSUMER CREDIT COSTS
IN RETAIL STORES IN WASHINGTON

APPENDIX A

LIST OF EXPENSES INCURRED BY RETAIL STORES
IN PROVIDING CREDIT SERVICES TO CUSTOMERS

New accounts costs:

Credit salaries related to opening new accounts

Employee benefits on above salaries

Postage on new account correspondence

Credit supplies and unclassified expenses

Charga-plate costs and services for new customers

Credit research services of credit bureau

Account servicing costs:

Billing salaries

Bill adjustment salaries

Employee benefits on above salaries

Postage on customer statements

Accounts receivable billing supplies

Bill adjustment supplies

Accounts receivable balancing differences

Replacing lost or stolen charga-plates

Addressograph services for credit or accounts receivable purposes

Equipment rental and maintenance costs on equipment used primarily for the credit function

Related credit costs (costs which are in part directly associated with rendering credit services) -

Sales audit salaries

Cash office salaries in handling collections

Mail service salaries

Statistical salaries

Employee benefits on above

Telephone cost related directly to credit operations

Taxes on net asset value of equipment and furniture used in credit

Insurance premiums paid on accounts receivable balances

Supplies and expenses related to credit operations

Sales audit

Cash office

Mail service

Sales books and credit books used on selling floor

Account collection costs:

Collection salaries

Employee benefits on above salaries

Postage on collection (dunning) mail

Collection supplies and unclassified expenses

Credit bureau services related to collection problems

Collection agency fees

Bad debt expense (net of recoveries)

NATIONAL
Bank of Alaska
Main Office: Box 600 • Anchorage, Alaska 99510 • 907/272-5544

March 6, 1975

Representative Bob Bradley
Room 203 Assembly
Pouch E
Juneau, Alaska 99801

Re: House Bill 46--Act amending the Alaska Retail Installments Sales Tax

Dear Bob:

House Bill 46, introduced by Representative Tom Fink, is simply an act to reduce the existing interest rates on retail installment sales, and the retail charge program of which our credit cards program operates within the state.

This bill not only effects credit card programs, but also all companies who have financing programs to aid the consumer in purchasing items.

The rates proposed in the bill simply make it impractical to continue such programs.

Unfortunately, a bill such as this, that supposedly is intended to benefit the consumer, will create hardship on the person it is designed to help by drying up the availibility of funds.

I will be in Juneau soon and will be happy to explore this bill with you personally or the committee at your discretion.

If I can offer any additional information, I will be happy to do so. We are opposed to this type of legislation and request that it be reviewed in depth by your committee.

Very truly yours,

Richard T. Hall
Vice President

Bob we have 60,000 Credit cards out to alaskans. Mastercharge has extensive acceptance too. The rates are not bad Dad - Dick

Sears, Roebuck and Co.

PACIFIC COAST LAW OFFICES

900 SOUTH FREMONT AVENUE

ALHAMBRA, CALIFORNIA 91802

VINCENT W. JONES
GENERAL COUNSEL
576-4766

ATTORNEYS
JOHN J. McCUE 576-4451
R. STANLEY HALL 576-4457
MICHAEL N. PENNELL 576-4061
IRWIN G. ARKY 576-4843
PHILIPPE J. MONET 576-4454
H. WARREN SIEGEL 576-4064
CHARLES P. McKENNEY 576-4058

March 11, 1975

Honorable Bob Bradley
Chairman, House Commerce Committee
Pouch V
State Capitol Building
Juneau, Alaska 99811

Dear Representative Bradley:

At the end of the hearing on HB 46 last week, Representative Fischer asked me what Sears' delinquent account experience is. You will remember I had said that this is one of the costs of granting credit. I was not able to answer Representative Fischer's question at that time but submit the following for your information.

Nationally, at the end of 1973, there were 168,560 Sears credit accounts delinquent three or more monthly payments. The number of defaulted accounts (less than one full monthly payment received during the previous six months) totaled 4,338. The provision for uncollectibles, after recoveries from charged off accounts, and the related percentage to credit sales was $45 million, which was .6% to credit sales.

Sears' experience in Alaska compares with these figures. In various studies I have seen which set forth retail industry statistics, the figures indicate that Sears' experience is slightly better than most. Therefore, an industry average would be closer to 1%, as a fair estimate.

I appreciated the opportunity to appear before the Committee. If you or any Committee member have further questions, we will be happy to try to answer them.

Sincerely yours,

Charles McKenney

Charles McKenney

CM/sm

cc: Rep. Helen Fischer
Don Magnuson

STATE OF ALASKA

JAY S. HAMMOND, Governor

OPR: Miles
2532

DEPARTMENT OF COMMERCE

OFFICE OF THE COMMISSIONER / POUCH D — JUNEAU 99801

File

March 20, 1975

The Honorable Bob Bradley
Alaska State House of Representatives
Pouch "V" State Capitol Building
Juneau, Alaska 99811

Dear Bob:

Attached is information concerning HB 46, an act amending the Alaska Retail Installment Sales Act.

The Department of Commerce opposes this bill. It appears that passage of HB 46 would:

1. Raise the cost of goods and services to the consumer as well as the retailer;
2. Reduce consumer credit lines and make new credit and credit extensions most difficult;
3. Hamper the availability of credit for "marginal" consumers;
4. Increase down payments on many items;
5. Increase requirements for consumer insurance.

Should you wish additional material or comment, feel free to call on me at any time.

Sincerely yours,

Langhorne A. Motley
Commissioner

LAM/pc

HB

50

HB 50

Tape No	Date
3	2/12
4	2/12

"An Act relating to insurance settlements."

1/23/75

COMMITTEE REPORT

HOUSE

Mr. Speaker: Date _____

The Committee on Commerce has had HB 50 under consideration. A Majority of the members of the Committee

(X) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

A M E N D M E N T

Offered in the HOUSE By Commerce Committee

To: _____ HOUSE BILL NO. 59

_____ SENATE BILL NO. ____

AMENDMENT: Page 1 Line 12, 14

Line 12

After the word "at" delete the words "the legal rate" and insert the words 'the rate of four percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District that prevailed on the day of the notice of the loss or the date of settlement, whichever is greater.".

Line 14

After the word "shall" insert the words "be entitled".

LAW OFFICES OF
FAULKNER, BANFIELD, DOOGAN & HOLMES
SUITE 201, 311 FRANKLIN STREET
JUNEAU, ALASKA 99801

TEL. 586-2210
AREA CODE 907

HERBERT L. FAULKNER (1882-1972)
NORMAN C. BANFIELD
FRANK M. DOOGAN
MICHAEL M. HOLMES
RANDALL J. WEDDLE
WILLIAM B. ROZELL

JAN VAN DORT
LAWRENCE T. FEENEY
CHARLES N. DRENNAN

February 19, 1975

The Honorable Bob Bradley
Chairman, House Commerce Committee
Pouch V
Juneau, Alaska 99811

Re: House Bill No. 50

Dear Mr. Chairman:

I am sorry that I did not have the opportunity to appear at the hearing that was held on this bill on February 12, 1975. The American Mutual Insurance Alliance is opposed to legislation such as this for serveral reasons.

First, Mr. Fink may believe that a bill such as this would gouge the insurance companies. However, all underwriting penses, including interest, are merely passed on to e consumer in the form of higher premiums.

Second, n a garden variety automobile accident where the only loss is physical damage to the motor vehicle, it is certainly possible to settle the claim within 30 days. This is not the case when the situation involves a loss at sea, a major disaster such as the crash of the Alaska Airlines jet at Teardrop Lake, or personal injuries where a person may not be medically stable for quite some period of time. Often, it is extremely difficult if not completely impossible for an insurance company to put a value on the loss within 30 days from the date the loss occurs. A bill requiring interest on top of the amount of the settlement

penalizes the person paying premiums because the insurer does a thorough investigative job.

Third, in personal injury actions, a portion of a judgment award or settlement represents compensation for future losses. It is patently unfair to require insurance companies to pay interest on the portion of the award representing future loss. If anything, an insurance company should be entitled to a discount on that portion of the award for early payment.

Fourth, the Alaska Supreme Court has already held that a successful party is entitled to interest on the amount of his damages from the date the claim or cause of action arose. This and our famous Rule 82 attorney's fee provision are very much in the minds of insurance companies when they are dealing with injured claimants. It would be fair to say that a portion of each settlement would be labeled interest because of the effect that the Supreme Court holding has had on settlement negotiations.

I have not really thought about this in depth, but it would appear that the last sentence of the bill would tend to discourage insurance companies from raising earlier settlement offers.

I sincerely appreciate your consideration of my comments.

Very truly yours,

FAULKNER, BANFIELD, DOOGAN & HOLMES

By
Jan Van Dort

JVD/aw

HB
51
HB
52

HB 51 & 52

Tape #	Date
6	2/26
7	2/26
9	3/5

"An Act making a special appropriation to the Department of Commerce, division of insurance; and providing for an effective date."

1/23/75

COMMITTEE REPORT

FINANCE

HOUSE

Mr. Speaker: Date _____

The Committee on Commerce has had HB 51

under consideration. A Majority of the members of the Committee

(X) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

"An Act creating an office of the public adjustor; and providing for an effective date."

1/23/75 COMMITTEE REPORT JUDICIARY

HOUSE

Mr. Speaker: Date _____

The Committee on Commerce has had HB 52

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ ___ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

AMENDMENT

OFFERED IN THE HOUSE: BY: Commerce Committee

To: _____ HOUSE BILL No. 52

SENATE BILL No. _____

PAGE: Two LINE: 16, 18, 19

Page Two, Line Sixteen - Delete "director" and insert "governor"

Page Two, Line Eighteen - After the word commissioner, delete remainder of line eighteen and line nineteen and insert, 'but may be removed for cause or by the request of the governor and concurrence of a majority of the Legislature by concurrent resolution. When the Governor requests removal the public adjustor shall remain in office until removal by the action of the Legislature."

Alaska Independent Insurance Agents & Brokers, Inc.

SEND REPLY TO:

BRATTRUCK & GRUMMETT, INC.
301 SEWARD STREET
JUNEAU, ALASKA 99801

February 24, 1975

The Ninth State Legislature

To Whom it May Concern:

Re: HB 52 & HB 51

On behalf of the Board of Directors of the Alaska Independent Insurance Agents and Brokers, Inc., I would like to make the following statement regarding the Public Adjuster.

We are against your idea of a Public Adjuster. We feel that someone within the Department of Insurance should be designated to handle the consumer complaints. We also feel that the independence of this individual as proposed in HB 52 is far too strong for the position.

We, on the other hand, would like to see th. Legislature pass on the $75,000 which was earmarked for HB 51 to go to the Division of Insurance to fund the additional personnel needed to run that department.

Sincerely,

Roger Grummett

Roger Grummett
Director and
Chairman of Legislative Committee

RG: eh

ENGSTROM AND EVANS
ATTORNEYS AT LAW
202 NATIONAL BANK OF ALASKA BUILDING TELEPHONE (907) 586-1445
JUNEAU, ALASKA 99801

ALLAN A. ENGSTROM
GORDON E. EVANS

February 11, 1975

Honorable Robert Bradley
Chairman, House Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99801

Re: House Bills 50, 51 and 52

Dear Chairman Bradley:

Blue Cross of Washington Alaska, Inc. has been asked by a representative of your committee to comment on the above bills. I represent Blue Cross as legislative counsel.

With reference to House Bill No. 50, Blue Cross does not have a position.

With reference to House Bills Nos. 51 and 52, Blue Cross does not oppose legislation creating an office of public adjuster.

Thank you for the opportunity to make these comments.

Very truly yours,

ALLAN A. ENGSTROM

AAE:rhm
cc: John Hopkins

STATE
of ALASKA

MEMORANDUM

TO: Honorable Bob Bradley
Chairman, House Commerce Committee
Alaska State Legislature

THRU: Andrew S. Warwick, Commissioner
THRU: A.M. Saylors, Director

FROM: John George
Risk Manager
Division of General Services & Supply
Department of Administration

DATE : February 19, 1975

SUBJECT: HB 51 and HB 52
Committee Hearing

At the request of Ms. Judy Whitney, comments on House Bills 51 and 52 for review by the House Commerce Committee are respectfully submitted.

The establishment of a public adjuster within the Department of Commerce will not have an effect on the State's Risk Management program. It is designed to protect the individual policyholder and claimant who lacks specific insurance expertise.

It is our opinion that the Department of Commerce, Division of Insurance, already provides a valuable service to the individual purchaser of insurance by investigating and regulating insurance companies and claims adjusters. Appointment of a public adjuster would unnecessarily overlap with work already carried out by the Division of Insurance. If there is a need for additional investigation and arbitration of claims settlement, it seems logical that the Division of Insurance should be expanded by one or more classified persons to handle this additional workload along with other regulatory duties.

To our knowledge, all persons requesting assistance from the Division of Insurance have received help. The number of these requests is relatively small and, in our opinion, does not justify either a full time, exempt position or an appropriation of $75,000 at this time.

File

HOUSE BILL 52

House Bill 52, an act entitled: "An act creating an office of the public adjustor; and providing for an effective date."

The purpose of HB 52 is to protect and assist the insurance claimant within the state of Alaska by providing for a Public Adjustor within the Division of Insurance, Department of Commerce.

A Public Adjustor as proposed in HB 52 acts as an ombudsman for members of the public needing help in the determination of the amount of claims or in the settlement of claims with insurers. The Public Adjustor would be of most benefit to the insurance claimant with a small claim.

Currently there is no public assistance for a person filing an insurance claim. If the claim is a large one, it is economically feasible to hire an attorney to negotiate with the insurance compnay or contest the settlement in court. In the case of the claimant with a small claim, in most cases it is not feasible to hire an attorney or take the company to court. The only recourse left to the claimant is to accept the settlement offered by the insurance company which is, in some cases, an amount far less than a fair settlement for the claim. The Director of the Division of Insurance stated that in some states insurance adjustors are brought in to assist the public in such matters.

An adjustor is one who investigates and reports to his employer concerning claims arising under insurance contracts. Their investigations are made on behalf of either the insurer or the insured, whichever employs them. There are three types of claims adjustors to help one when filing a claim. A company adjustor is an employee of the insurance company. An independent adjustor is employed by the insurance company as a private contractor, and is usually used when the company does not have its own company adjuster available. A public adjustor in some states is hired by the claimant and is paid by the claimant. Brokers and agents assist in claims also.

The Public Adjustor would be of assistance to the public not only in the settlement of claims but also in the determination of claims. Currently the only recourse a claimant has if there are problems with claims determination or settlement is to file a complaint with the Governor's office. A complaint received by the Governor's office is forwarded to the Commis-

insured in broader Adm. powers?

sioner of Commerce who forwards it to the Director of the Division of Insurance. John O'Shea, the Director of the Division of Insurance stated that he and his staff handle one half of the complaints for the State while his Deputy in Anchorage handles the rest. I would question this system in that most people are unfamiliar with government and would not know where assistance was available to aid them in an insurance problem. I would also question the time involved in this procedure.

The Public Adjustor in accordance with HB 52 would be appointed by the Director fo the Division of Insurance. Once appointed this person would serve independently of the Division of Insurance. As it states in this bill the Public Adjustor can be removed for cause as determined by the Legislature by concurrence of a 2/3 vote. There may be problems here with the appointment by the Director of the Division and the removal of this person by the Legislature. As the Legislature's role is not to act as an administrator and this person must be in cooperation with the State administration, a better solution might be to have the Public Adjustor appointed by the Governor with confirmation by the Legislature. The Governor would then also be able to remove this appointee with concurrence of the Legislature. The term of the Public Adjustor as stated in the bill is four years. If the procedure of hiring and terminating is changed the term of service might also be investigated.

Amendment

The Public Adjustor although independent of the Division of Insurance will be included under the Prohibited Interests Rewards section 21.06.040. This insures that the Public Adjustor has no conflict of interest in dealing with the public or insurers, as is easily understood in this amendment to the current law.

The direct responsibilities of this position, as stated before, are to assist the public in the determination of the amount of claims and aid in the settlement of claims. Through this assistance, the Public Adjustor will become familiar with the settlement practices of insurers and shall review their records on both settlement practices and claim payment records. During this process if it is discovered that an insurer is habitually uncooperative in settling claims, slow in making payments on claims, or engages in practices inconsistent with the purposes of this title, the Public Adjustor shall request the Director of Insurance to hold a hearing and if warranted suspend the license of an insurer not complying with the requirements of this title. This process reinforces the position of public ombudsman which the Adjustor will have in dealing with the insurance company.

House Bill 51 requests a special appropriation to the Department of Commerce, Division of Insurance to fund the office of the Public Adjustor. This act will take effect July 1, 1975

and requests the sum of $75,000, appropriated from the general fund, for this purpose. In talking with Mr. Fink, prime sponsor of this bill, he stated that he felt a good insurance adjustor could be hired for $25,000 yearly. This appropriation would allow for a small staff and funding for an information brochure.

The location of the office is not stated in the bill. The logical assumption would be that the office be located in Juneau. During the first year of business, while the public is becoming aware of this service, it seems more logical to place the office in Anchorage where the most people are and therefore the most claims. Although this is not an important facet of this legislation, there is currently a state insurance office located in Anchorage so the office of the Public Adjustor could be located in either Anchorage or Juneau.

Opinions of this bill are forthcoming from Mr. Roger Grummett, Legislative Representative for the State Association of Independent Agents. Mr. Grummett is attending a board meeting of this organization in Sitka this weekend and will report their opinions to us on Monday. Attached is an opinion from John George, the Risk Manager for the State. I spoke with John O'Shea present Director of the Division of Insurance. He spoke against HB 52 and cited reasons for his opposition. He was opposed to this bill because the office of the Public Adjustor was not in keeping with the administrative process of his office and it would only compound administrative problems. He felt the ombudsman as proposed by the Governor and Senator Kerttula could handle these problems. He did emphasize the special expertise needed for such a position and felt that the costs to provide this would be tremendously high. He felt that the funds expended for this position could be better utilized within his own department and that there would be better claim settlements if there was more funding in his department. He objected to the Public Adjustor being appointed by the Director and then only removed by the Legislature. Mr. O'Shea was basically very concerned over his position and the administration of his division.

Mr. O'Shea stated that he knew of no state that had a public adjustor. He stated some states hire adjustors on public license, who work similarly to our concept of a Public Adjustor, for a small fee. I learned that Pennsylvania has a system similiar to this and am awaiting aresponse from them on how their system functions.

I have received information from the State of Washington concerning questions on who handles these responsiblities (meaning those delegated to the Public Adjustor in HB 52) within their state structure. The Washington Insurance Department has established a Comprehensive Consumer Division within the office of the Commissioner of Insurance. The Supervisor of

the Consumer Division is not independent of the Commissioner, but this system seems to be working. Attached are explanatory brochures on this system. The last page of the brochure explains to the reader how to file a complaint with the Commissioner. The State of Alaska Division of Insurance has no such literature on insurance and no way to inform the public on how and where to file a complaint. The State Consumer Protection Office refers insurance complaints to the Division of Insurance as do individual insurance agents.

As further information is gained in respect to this bill, it will be forwarded to your office.

HB

105

UNIFORM HOLD HARMLESS ACT

A Hold Harmless Agreement is a contractual arrangement whereby one party agrees to indemnify and hold harmless another party for negligent acts. Hold harmless agreements are classified as limited form, intermediate form or broad form depending on the degree of liability assumed for the negligent acts of others.

Under a limited form hold harmless agreement, the indemnifying party assumes liability for only its own negligence. The liability assumed under a limited form hold harmless agreement is no more than that imposed by common law.

Under an intermediate form hold harmless agreement, the indemnifying party assumes liability for its own negligence and the contributing negligence of the party being indemnified. In other words, the indemnifying party waives contributory negligence on the part of the party being indemnified and assumes responsibility as if the indemnifying party, alone, were responsible.

Under a broad form hold harmless agreement, the indemnifying party assumes liability for negligent acts without regard to which party is negligent, including acts for which a party other than the indemnifying party may be solely negligent. The scope of a broad form hold harmless agreement is limited only by the imagination of the legal counsel of the party being indemnified and the knowledge and bargaining position of the indemnifying party.

It is apparent, and experience has demonstrated, that hold harmless agreements tend to thwart the free working of the common law. Also, hold harmless agree-

ments create legal conflicts between public policy and the right of parties to freely contract with each other, and they often result in inequitable contractual relationships.

The Uniform Hold Harmless Act would prohibit hold harmless agreements whereby one party indemnifies another party against liability claims for bodily injury or property damage. The Act would permit the free working of the common law in an area where the common law has served the public well. It would promote the public policy that a wronged party should have a remedy at law for injuries suffered as a result of another party's negligence. It would outlaw a party negating its responsibility for its own negligence by contractual agreement.

The Uniform Hold Harmless Act would also clarify the law concerning the enforceability of hold harmless agreements. The courts have had difficulty with hold harmless agreements, finding them in conflict with, on the one hand, the common law concept that a party must be responsible for its own acts and, on the other hand, the right of a party to lawfully commit and bind itself under contract. Understandably, the courts have been inclined to protect the unwary and the uninformed and to interpret hold harmless agreements in their narrowest terms. The courts, in a number of cases, have held that hold harmless agreements were in violation of public policy. The Uniform Hold Harmless Act would resolve these legal conflicts in Alaska by declaring hold harmless agreements to be contrary to public policy and, as such, void and unenforceable.

The Hold Harmless Act would also promote more equitable contractual relationships between parties. A relatively small business firm is often at a disadvantage when negotiating a contract with a larger firm. The larger firm will often pre-

sent the smaller firm with a printed or standard contract containing an intermediate form or broad form hold harmless agreement. The smaller firm will often accept the hold harmless agreement as presented either because it does not understand the obligation which it is assuming or because its bargaining position is such that it is unable to negotiate a change.

An indemnifying party should arrange to insure the obligation which it has assumed, and this creates additional insurance cost. More serious is the situation where an indemnifying party does not insure the obligation which it has assumed either because the indemnifying party does not understand the obligation assumed or because the obligation assumed, for any number of reasons, is not insurable.

It is significant that at least nineteen states have now passed legislation limiting, restricting or prohibiting various types of hold harmless agreements.

The Uniform Hold Harmless Act would require that all persons and business entities in the State of Alaska stand as equals before the common law in the assessment of liability for their negligent acts.

STATE OF ALASKA

DEPARTMENT OF LAW

JAY S. HAMMOND, Governor

OFFICE OF THE ATTORNEY GENERAL

POUCH K — STATE CAPITOL
JUNEAU 99801

March 21, 1975

Representative Bob Bradley
Chairman
House Commerce Committee
Alaska State Legislature
Pouch V, State Capitol
Juneau, Alaska 99811

RE: HB 105.

Dear Representative Bradley:

You have asked us for a memorandum on the constitutionality of HB 105. This measure purports to adopt "the Uniform Hold Harmless Act" but it is not based upon any bill drafted by the National Conference of Commissioners on Uniform State Laws. We are writing to the Contracts Section of the American Bar Association to ascertain if it has done any studies on suggested legislation of this nature.

Our preliminary view, however, is that there is an obvious constitutional infirmity in that clause of proposed AS 45.47.020(b) which provides: "This chapter applies to all contracts executed or performed in the state including. . . all contracts executed or performed before enactment of this chapter."

Article I, Section 10 of the U.S. Constitution provides: "No state shall. . . pass any. . .law impairing the obligation of contracts," and Article I, Section 15 of the Constitution of the State of Alaska provides: "No law impairing the obligation of contracts. . . shall be passed." These prohibitions apply to contracts which are already in existence. The Supreme Court of the United States has said of the federal proscription: "The contract clause of the Constitution of the United States has reference only to a statute of a state enacted after the making of the contract whose obligation is alleged to have been impaired. "Oshkosh Waterworks Co. v. Oshkosh, 47L ed 249, 253 (1903), 187 US 437.

There is no impairment where a contract is against public policy but HB 105 in proposed AS 45.47.010(4) declares the intention to promote a public policy which is not now recognized by the Alaska statutes so the impairment by AS 45.47.020(b) would not be

mitigated. At least three states which prohibit "hold harmless" agreements in building contracts as against public policy -- Hawaii, Idaho and Utah -- have express provisions in the statutes preventing them from being applied to contracts in force at the effective dates of the acts.

As to the application of HB 105 to agreements entered into after enactment, there is a constitutionally guaranteed freedom to contract which must be considered. The liberty and property rights secured by both the federal and state constitutions are interpreted to include freedom of contract. But this freedom is not absolute and limitations may be imposed prospectively as an exercise of police power to promote the general welfare "if they both relate to the claimed objective and employ means which are both reasonable and reasonably appropriate to secure such objective". Department of Financial Institutions v. Holt, 108 N.E. 2d 629, 635 (Indiana 1952).

Whether the Alaska courts would consider that HB 105 meets such a standard in prohibiting "hold harmless" agreements in future contracts, is a matter for conjecture. But we would conclude that this measure is obviously unconstitutional only in its application to contracts in force at its effective date.

We will advise you if we receive any pertinent information from the American Bar Association. If we can be of further assistance, please let us know.

Sincerely,

AVRUM M. GROSS
ATTORNEY GENERAL

By: Richard L. Peter
Richard L. Peter
Assistant Attorney General

RLP:jw

LaBOW, HAYNES OF ALASKA, INC.
A ROLLINS BURDICK HUNTER Company

Multinational Insurance Brokers / 840 K Street, Anchorage, Alaska 99501 (907) 279-2422

March 31, 1975

The Hon. Bob Bradley, Chairman
Commerce Committee
Alaska House of Representatives
Juneau, Alaska 99801

Re: Uniform Hold Harmless Act

Dear Mr. Bradley:

Enclosed are ten copies of a statement I have prepared to be read into the record of the joint Senate and House Commerce Committee hearing to be held April 1 on the Uniform Hold Harmless Act.

I will be pleased to answer questions from you or members of your committee.

Sincerely,

LABOW, HAYNES OF ALASKA, INC.

George S. Suddock, President

GSS:tm
enclosures

HB 105

Tape #	Date
4BL	4/28
3L	4/30

An act accpting the Uniform Hold Harmless Act.

1/30/75

COMMITTEE REPORT

HOUSE

Mr. Speaker: Date _____

The Committee on Commerce has had HB 105 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE Judiciary COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

A M E N D M E N T

Offered in the HOUSE By Commerce Committee

To: _____ HOUSE BILL NO. 105

_____ SENATE BILL NO. ____

AMENDMENT: Page 1 Line 6

Line 6

After "and" insert "repealing" and delete "and" and "thereto".

HB

1115

HB 115

Tape #	Date
5	2/20
5	2/24
6	2/24
25	4/8

ALASKA PUBLIC INTEREST RESEARCH GROUP

P. O. BOX 1093
ANCHORAGE, ALASKA 99510

PHONE 274-6765

File with HB 115

April 22, 1975

Representative Bob Bradley
Chairman
House Commerce Committee
Pouch V
Juneau, Alaska 99801

Dear Representative Bradley:

Enclosed is a copy of a proposed amendment to HB 115, an act which would compel mortgage lending institutions to pay interest on mortgage reserve account funds.

The proposed amendment should remove most of the difficulties inherent in tying the interest rate to the passbook savings rate, an objection often raised by the banking industry. With modern computerized accounts, the one-half percent margin for lending institutions provides ample income to cover the cost incurred in administering the accounts.

If this bill is passed as amended, each home owner with a mortgage will receive between $25 and $50 dollars each year in interest earned on their money being held in escrow.

Please advise me if this information is sufficient.

Sincerely,

James Love
Director

File under
HB 115

Alaska Public Interest Research Group

Mortgage Escrow Accounts

or

GIVING INTEREST WHERE INTEREST IS DUE

April 29, 1975

Remember the old-fashioned Christmas Clubs? Periodically, a small amount would be deposited into this account and at the end of the year the depositor would get back exactly the amount he had put into it. This scheme prevailed under the guise of another "free of charge" service from your friendly bank.

The depositors were overwhelmed by such service. Likewise the banks were overjoyed to have these interest free deposits! It took a while, but it finally dawned on people that they were simply contributing to the wealth of the banking industry. What had started as an added service, "free of charge" ultimately turned out to be just another form of swindle upon the slow-witted trusting consumer. Fortunately, people finally caught on, resulting in a marked decline of members in such "Clubs".

However, yet another form of "no interest" operation still goes on, accumulating several billion dollars a year on which savers do not earn a cent. And again, consumers are beginning to show a lot of interest in this "no interest" scheme.

It exists under several names-escrow, impounded funds, and T&I Accounts (Tax and Insurance). Every homeowner who makes monthly payments to a savings and loan association, mortgage company or local bank is donating hundreds of dollars to the multi-million dollar wealth of these lending institutions.

Unlike the Christmas Clubs though, the escrow account concept was a response to a critical problem. The depression of the thirties found Americans literally unable to buy homes. Few banks had sound liquid cash positions and lending for property and homes was considered very risky. Extremely high down payments were demanded, along with very high interest rates and very short periods were allowed for re-payment (thirty year mortgages were unheard of). The average American, even the employed ones, found such demands impossible to meet.

At this point the Federal government decided to intervene. In 1934 the Federal Housing Administration was created by the National Housing Act. It provided for low down payment loans with the FHA insuring the repayment of principle and interest. The FHA went to the lending institutions and argued for a situation where housing would be more in the reach of middle class Americans with the monthly loan payments closer to an average rental payment. The banks, shaky and fearful, claimed home loans were too big a risk, so the FHA said the government would insure them against loss. Not dollar for dollar, but enough to encourage a change in lending practices. Additionally, the FHA formulated regulations by which all insured loans would have to be governed. One of these regulations was the establishment of "escrow" accounts.

Prior to escrow, an owner of a mortgaged property was responsible for paying taxes and insurance as they fell due. As money became scarce, many owners could not meet insurance payments or simply did not buy any. Tax payments were often not met. Unnumbered citizens lost their property to foreclosure by the local taxing bodies or through uninsured damage. In the cases where the equity was low (little of the loan paid off), the banks suffered severe and heavy losses. Escrow accounts, where each monthly loan payment included payment toward future tax assesments and insurance payments, and those monies were set aside in special accounts, were the solution for both the person paying off their mortgage and the lender. It meant that when taxes or insurance fell due the money existed in the escrow account. The mortgagor did not have to scramble for the "extra" cash and the banks did not have to fear that the money they had loaned would be lost to foreclosure or uninsured damage.

The benefits of the establishment of escrow accounts cannot be underestimated. It played a large part in making home ownership possible for literally millions of Americans. And it has through the years supplied millions upon millions of dollars profit to lending institutions.

Now that we have given credit where credit is due, it is time to move on to discussing giving interest where interest is due.

While escrow accounts, as we have pointed out, arose from a genuine need and remain a real service to mortgage customers, it is a service you pay exorbitantly for.

For instance, the cost nation wide in monies lost to the home buying consumer, borrowing from just savings and loan associations alone, is in excess of $75.6 million annually! And, based on the GAO (General Accounting Office) estimate of the aggregate of escrow deposits in all lending institutions, this service costs in total are $470 million a year.

This rip-off works in a very simple manner. Each month, when you make your mortgage payment, you also pay 1/12th of your estimated tax and hazard insurance bill. This money is set aside in an escrow account. As far as the homeowner is concerned, it is sitting idle, growing payment by payment, until the bank receives the bills and pays them. (Taxes in Anchorage are paid twice yearly, insurance once.) However, it takes very little reflection on anyone's part to realize that "idle" money is an absolute anathema to a banker. In fact, it would be senseless to expect a business whose profits come from "using" money-buying, selling, investing-to allow perfectly good money to languish unused. Nor does it.

Your money is used. Lenders invest these funds in short term securities for financial gain. Such use of consumers money that is on deposit with a financial institution is a matter of course, an accepted and approved practice.

And in a straightforward transaction the depositor receives some of the profits his money makes. When the bank uses your money, it pays you interest-just as you pay interest to the lending institutions when you borrow and use their money. With one glaring exception. The overwhelming majority of lenders will pay you no interest on your escrow monies on deposit with them. No matter how much profit they make from its use.

The figure mentioned earlier of $470 million---four hundred-seventy million dollars---is the amount American homeowners who are paying off mortgages would have received in one year if they got even 5% interest on their impounded monies. (And lest you think impounded is a harsh term, try buying a home through a financial institution without agreeing to deposit your tax and insurance money with them!)

The arguements of lenders on this subject are curiously contradictory. Lenders repeatedly emphasize the benefits which the Escrow System provides them protection against unnecessary foreclosure. They also question the necessity of requiring payment of interest since the amounts involved would be so small as to not make it worthwhile. Yet at the same time they threaten to raise interest rates or cancel escrow services if payment of interest is required. If the interest on escrow would be so small, why should its payment affect an institution to the point that it would be forced to re-coup by raising the interest on money lent? If the escrow system is so beneficial to lenders, why would they abandon it simply because of the forced payment of a "paltry" sum?

Additionally, local lenders like to talk about the unique money problems of Alaska. They claim that the majority of the escrow money deposited with them is actually not theirs to use. Your mortgage is in fact usually sold to

bigger outside investors and the local institution is paid by them to service the account-bill you, collect payments, make payments etc. The claim is that escrow monies go, along with the principle payment, to the invester currently holding your mortgage. The example most often used is FNMA, the Federal National Mortgage Association (Fannie-Mae). They are the nations' single largest investor in residential mortgages, holding a net portfolio of 23.6 billion in mortgages and loans. Some local lenders claim that FNMA requires the original lender and servicing institution to pass along their escrow accounts. That if institutions do not, that FNMA will not buy the mortgages and Alaska will loose one of its major sources of capital, and therefore consumers will not be able to buy homes!

It is true that there is not enough money in Alaska to serve the needs of all those people qualified to borrow. If groups like FNMA refused to give our local lenders money for mortgage paper there would be a drastic reduction in available home loans.

It is not true that FNMA demands the use of the escrow money and is therefore the one using it, not our local institutions. It is not true that they will not invest in the mortgage market of Alaska without it. Not according to the public and printed statements by FNMA.

One page 41 of Background and History by FNMA, under "Treatment of Tax and Insurance Escrow Funds by Servicers" It is stated:

> "Prior to July 1949, servicers were required to remit all collections, including those for the payment of taxes, charges, assessments, and hazard insurance to the Association and such items were paid direct. Beginning in July 1949, such funds then held by the Association were transferred to the appropriate servicers and were deposited in a custodial account maintained by each such servicer in a depository institution approved by it, and the servicers thereafter paid taxes, hazard insurance, etc., as they became payable. In January 1953, the dollar amount of the funds that could be held on deposit by a

servicer in an approved custodial account was limited to $250,000, and in January 1954 these deposits were further limited to (a) a sum not exceeding $10,000 for any one mortgagor account, or (b) in any event not in excess of $250,000. Effective at the end of, and subsequent to, February 1955, the total amount of the deposits that could be held by a servicer in an approved custodial account or accounts could not exceed the greater of (a) $2,500 or (b) the sum equal to two times the average monthly collection of the deposits for taxes, hazard insurance, etc., but in no event in excess of $250,000.

With respect to home mortgages purchased after August 1970, all escrow funds are held by the servicers."

In a January, 1975 interview with Mr. Dickson of FNMA's Mortgaging Programing in Washington D.C., our researcher was assured that the above statement is FNMA's current policy. He also stated that as of August 1970, FNMA actually pays a servicing fee to the institutions which sold the mortgages.

Which brings us to another favorite arguement offered by lenders. That the sum in individual accounts are so small, and the servicing process so costly that virtually any money made from investing said deposits is eaten up. That in fact, if lenders are required to pay any meaningful interest it will cost them more than they make from the account and therefore they will have to cease offering escrow services.

As far as we can ascertain, this arguement has never been substantiated with facts and figures. Nor do we believe it can be. Figures given at national hearings in 1972 showed that for a median size savings and loan association (assets of 15 million) investing their escrow monies at 4% the yield would be 7 times greater than their labor costs involved in administering the accounts. (Presentation by Home Federal Savings and Loan Association made to the Senate Committee on Banking, Housing and Urban Affairs at a public meeting held in Souix Falls, Idaho on conventional mortgage forms.)

One need only take a look at the usual kind of investment made with escrow monies-short term Federal Securities-to see the kinds of profits that are available.

The U.S. Treasury Department issues securities whose interest rate is determined by bids from prospective investors prior to each issue. There are three types; the one most useful to investors of escrow monies are called Treasury Bills, or T-Bills. These Bills have a term of one year and usually come in $10,000 denominations, although twice in 1974 issues were made of $1,000 T-Bills.

These Bills are suited to escrow investors because they mature in time for the escrow funds to be available for payment of taxes and insurance. The last issue of T-Bills is returning on <u>your</u> money an interest yield of 5.04%, and the next issue will yield 6.31%.

With this kind of interest available the lending institutions could readily pay the costs of administering the escrow accounts and still give a 5% return to their depositors.

Of course, now the question arises, "What would this mean to me, individually?"

Perhaps the best way to answer that question is to take a look at the institutions in Alaska that give some kind of interest on escrow account. There are two.

Home Federal Savings and Loan Association of Anchorage pays <u>passbook savings rate on ALL</u> escrow account, from single family residences through commercial mortgages. The present rate of interest is 5 1/4%, compounded daily. Statements are issued quarterly showing how much is in the reserve account and how much interest has been earned. Home Federal has only been open a little over a year but they estimate the average gain to the home buyer is about $30 a year.

Alaska Mutual Savings bank also pays interest on escrow accounts, but only to owners who occupy a single family residence. The interest rate is much lower, 3 1/2% on balances up to $700, going to 5 1/4% on any monies accumulated over $700. An owner of a $60,000 home, paying $160 in taxes would receive $23.

This coupled with the fact that even without a mill rate increase for 30 years, as the value of your property goes up so will the amount of taxes and insurance you must pay into escrow. Over the life of a 30 year mortgage a homeowner could expect to receive over $1000 from the interest on his escrow.

The following box from CHANGING TIMES illustrates further.

Suppose you did it yourself

Ronald and Ruth Martin are fairly typical homeowners. In May 1963 they purchased a four-bedroom house for $20,500 with $3,500 down. Improvements and general appreciation have since increased its value to approximately $35,000. Their lender insisted on escrowed insurance and tax payments.

To see how they might have fared as do-it-yourselfers, *Changing Times* asked the Martins to go back and restructure the payments they have made over the past nine years, crediting each required deposit to a hypothetical savings plan at 4½% interest compounded quarterly and using this account to simulate payment of each tax and insurance bill as it had come due.

The Martins made a substantial lump-sum payment into the account at the time of settlement. Their monthly escrow payments, and hypothetical deposits, were just under $37 at the start and have gradually increased to about $57 as both taxes and insurance premiums have gone up.

After searching their files and doing all the arithmetic, the Martins found that as of May 1972 they would have been almost $300 ahead under the savings-account method.

Of course, they would have spent a small percentage of the difference on stamps and envelopes for bill payments and an occasional letter. As it turned out, they got involved in correspondence anyway. Twice during the nine-year period—in 1964 and again in 1968—their insurance was canceled because the lender didn't pay the premiums on time. This despite the fact that one of the justifications for mandatory escrow accounts is that they prevent such problems.

July 1972 CHANGING TIMES *The Kiplinger Magazine* 7

It becomes clear that not only can one argue persuasively for the payment of interest from a moral standpoint, but that there are compelling financial reasons. Plainly, the income loss to consumers is substantial. In a year of Federal tax rebates, the economic value of getting fair interest on any money one is required to deposit cannot be ignored.

It is important to note that the movement to resolve the present economic inequities inherent in no interest escrow account is nation wide. Solutions are being proposed and discussed in the U.S. Congress as well as in many state legislatures. Litigation in behalf of the consumer has been filed in states across the country. Despite the fact that for the last three months AkPIRG has been gathering information on what is happening in other areas, it is probable that we have just scratched the surface of available information. What we have found follows.

LEGISLATION

National

1.) Senator Wright Patman of Texas, Chairman of the House Committee on Banking and Currency, in 1972 introduced a bill, H.R. 13337, Real Estate Settlement Cost Reform Act, that would have required lenders to pay interest on money in escrow accounts at the rate of more than one percentage point below the lowest rate currently paid by the institutuion.

2.) Represenative Leonore Sullivan of Missouri introduced H.R. 12066 in December, 1973, the "Proposed Federal Real Estate Settlement and Escrow Account Act."" This bill was one of ten introduced in 1973 relating to escrow accounts. It provided that, among other things, on federally related mortgage loans the borrower may elect to pay his own taxes and insurance premiums when due, but if he elect to have the lender set up an escrow account for this purpose, the borrower and lender may mutally agree between then as to whether interest shall be paid and at what rate of interest.

3.) Representative George E. Brown, Jr. introduced two bill in 1973. H.R. 11560 (also known as H.R. 9315), "The Escrow Account System Improvement Act" which deals with reform within the present system of escrow accounts Under section 6, a ceiling interest rate of 6 3/4% would be required on all

escrow deposits. This figure is 3.4% less than the prevailing rate on loans by the Federal Reserve banks to member banks, that difference going for escrow account service costs. The 6 3/4% interest would not be paid directly to homeowners but would be credited toward reducing the balance. The rate could be revised downward but not below 4%

The second bill, H.R. 12275, "Escrow System Improvement Act" would replace escrow accounts with an "Escrow Service Plan" where monthly deposits would be "capitalized", payments not segregated into special accounts with interest calculated, but credited directly toward reducing the balance due on the loan.

States

1.) Connecticut - As of September, 1974, escrow accounts must pay 2% interest.

2.) Indiana - would require insurance companies and other companies engaged in the business of lending money secured by residential or commercial mortgages on real estate to pay interest at the annual rate of 4% to mortgagors on escrow monies.

3.) Minnesota - would require banks, savings and loans and other financial institutions engaged in home financing receiving monies for insurance coverage or real estate taxes to pay interest on such monies at not less than the same rate and on the same basis applicable to its "regular savings account".

4.) Utah - would provide that persons having monies deposited with an escrow agent for payment of taxes and/or insurance in connection with real property transactions shall be entitled to receive interest payments on such monies at least annually and at least equal to interest payable by banks on regular savings accounts.

5.) New York-recently-enacted-must pay 2% a year on home mortgage escrow accounts.

6.) Maryland-enacted 1974-must pay interest on new mortgages where the loan interest in 10% or greater.

7.) Massachusettes - beginning on July, 1975, banks will credit interest to escrow but exact rate not yet set (as of 7/8/74).

8.) Oregon - Gerald Ansell, engineer, has been attempting since 1969 to win legislative acceptance of a plan that would either make interest mandatory on escrow accounts or have each payment capitalized to the credit of the borrower.

LITIGATION

Five Theories

There are in general, five theories for recovery that have been and are presently being pursued in litigation on behalf of the mortgage consumer.

Breach of Contract

This particular theory is the one presently being used in the case in Houston against 43 institutions. In a nut shell; when lending institutions arbitrarily and unilaterally change from a system like capitalization, a system from which the mortgage customer receives monetary benefit, to escrow, under the original contract and without notice, to the detriment of the customers and to the benefit of the lending institution, enriching them unjustly, it is argued that the lending institutions have breached the contract.

Express Constructive Trust

It is argued that since funds in an escrow account are deposited for a particular purpose and the mortgagee has notice of the expenses that the funds are to pay, a trust relationship is created. An express trust arises as a result of a manifestation of the intentions of the parties, that is, from contract

provisions; while a constructive trust is imposed by the court as an equitable doctrine to prevent unjust enrichment. Therefore, under the trust theory through conveants in the mortgage, lending institutions agree to act as agents of the mortgagors and discharge tax and insurance premium obligations giving rise to a fiduciary relationship of trustee and beneficiary. The payments for taxes and insurance premiums are a pre-deposit for a specific purpose, namely to pay property taxes and insurance premiums - obligations belonging to the mortgagor. Since such pre-deposit payments are deposited in an escrow account for a specific purpose, legal and equitable title does not pass to the mortgagee; instead mortgagee holds this money as a fiduciary for a specific purpose.

Under this interpretation, the earnings derived from escrow funds might be considered an unjust enrichment upon which the court could impose a constructive trust, requiring the payment of interest to all required to maintain mortgage escrows.

Truth-in-Lending

Quite simply, this arguement rests upon the premise that if a bank states it is charging the homeowners 8% but then collects from him an additional interest free loan every month, the effective rate of interest is higher than 8%. Since the substance of Truth-in-Lending is to deliver to the borrower "the truth", the lending institutions in failing to state the full annual percentage rate of the loan, are violating the Truth-in-Lending requirement, and unjustly enriching themselves at the expense of the taxpayer/homeowner.

Anti-Trust

The contention is that the lenders through conspiracies, tying arrangements, and conscious parallelism, are monopolizing the market which results in the borrowers having no alternative but to deal with the lender. Tying seems

the most widely applicable. An argument can be made that the non-payment of interest by lending institutions on escrow account is a tying agreement. In other words, the lending institution will loan money to the mortgagor only if the mortgagor agrees to put funds into the monthly escrow account held without interest by the lending institution. Hence, when a borrower is not allowed interest on the monthly escrow payments, he is in essence, giving up a certain amount of earnings (that he might receive elsewhere) which is analogous to the purchase of a tied product.

Usury and "Unconscionable" Theories

Usury laws basically provide one potential cause of action in which a mortgagor may seek cancellation of the mortgage debt. Such was the allegation in Graybeal v American Savings and Loan Association. As a rule usury is governed by state statue which limits the rate of return that a lender may exact from the borrower. The borrower is giving the lender additional funds when he makes monthly payments into the escrow account, and the lender's refusal to pay interest on the funds in effect increases the interest rate the borrower is paying on the principal debt. Since many home loans are usually made at the statutary maximum rate of interest, the additional of the "negative' charge will increase that rate in excess of the legal limit.

Cases

1.) In Sears v First Federal Savings and Loan Assn., 275 NE 2nd 300 (1971) the first appellate consideration of interest-free escrow accounts problem, the plaintiff brought a class action suit on behalf of all mortgage borrowers of the defendant alleging that the $19 million held by the defendant in escrow constitutes funds held in trust by the lender. The plaintiff argued that by commingling escrow and general deposit funds, the defendant violated its fiduciary duty and thus plaintiff was entitled to an accounting of all profits earned on the

trust according to the theory of unjust enrichment. A strict construction of the contract clauses by the court resulted in a judgement in favor of the lending institution but did not resolve the question of whether lending institutions should pay interest on escrow funds.

2.) In Washington D.C., 1972, attorney William Dobrovir filed a class action suit against 16 of the city's lenders with usury and violation of both the Truth-in-Lending Act and the Sherman Anti-Trust Laws alleged. Dobrovir demanded an injunction against the continuance of the escrow practice as well as the restoration to the plaintiff of money lost through non-payment of interest. The case was settled in May, 1974 resulting in two leading S&Ls agreeing to give most mortgage customers the option of making their own insurance and tax payments in the future.

3.) As of July, 1973 a similar case was pending in Houston, Texas, which made the same allegations based on constructive and/or Express Trust.

4.) Another class action suit was brought in 1973 in Houston. It went before the Federal District Court in Houston, against 43 banks, savings and loan associations and mortgage companies authorized to do business in Texas and having a principle place of business in Houston. Briefly, the institutions are being sued for breach of contract for abandoning unilaterally the capitalization on monthly tax and insurance payments and without notice adopting standard non-interest paying escrow accounts.

5.) In California, Nathaniel Colley, a Sacramento lawyer contends that 17 area S&Ls have conspired to withhold interest and is pressing for a refund of at least $400,000,000 in past earnings and an agreement to pay interest in the future. The suit has inspired similar class actions in Arizona, Arkansas, Florida, Illinois, Iowa, Nebraska, New York, Pennsylvania, and Wisconsin.

RECOMMENDATIONS

The first step in finding a remedy for this untenable situation is for consumers to begin receiving a fair interest on the money they are forced to deposit if they wish to buy a home.

1.) Alaska Public Interest Research Group is recommending that House Bill 115, introduced by Representative Fink, which calls for interest to be paid "at the rate established by the Federal Deposit Insurance Corporation as the maximum allowable rate on passbook savings accounts; or, if no rate is so established, at the rate paid by the financial institution on passbook savings accounts; or, for those financial institutions or lenders which do not provide passbook savings account services, at the rate established semi-annually by the commissioner as the prevailing passbook savings account rate" be amended to read, "at the rate then established quarterly by the commissioner, as one-half of one percent less than the prevailing rate of return from Federal Securities, U.S. Treasury Department Treasury Bills".

This proposed amendment assures the payment of interest to all homeowners required by lenders to maintain escrow account at a rate commensurate with the investment value of the money being held. The lender would be allowed to retain income derived from the one-half point interest rate differential to cover the cost entailed in performing the customer service of administering the escrow account. However, the earnings from the customers' money would go to the customer, not the lending institution as in the past.

2.) The local tax bodies should examine the costs involved in an improved method of collecting taxes that would minimize the practice of borrowing on Tax Anticipation notes. Those costs should be weighed against the cost to the taxpayers to continue as we are, having paid $200,000 last year alone in interest on Borough borrowing. The facts and costs should be made public.

HB

116

HB
128

HB 128

Tape #	Date
14	3/18

"An Act requiring that coverage for newly born children be included in individual or group health and disability plans."

COMMITTEE REPORT

3/12/75

HOUSE

Mr. Speaker: Date 3/12/75

The Committee on COMMERCE has had HB 128 under consideration. A Majority of the members of the Committee

(X) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

L. D. Reddy

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

L. D. Reddy Chairman

ALASKA STATE
MEDICAL ASSOCIATION
1135 W. Eighth Avenue • Anchorage, Alaska 99501 • (907) 277-6891

March 10, 1975

File with other bill data - Make copies for Tues. meeting.

Representative Bob Bradley
Chairman, Commerce Committee
House of Representatives
Juneau, Alaska 99801

Dear Representative Bradley:

It is our understanding that House Bill 128 - "An Act Requiring that Coverage for Newly Born Children be Included in Individual or Group Health and Disability Plans" has been referred to the Commerce Committee for consideration.

As indicated in our "Health and Legislative Action - 1975 - position packet", the Legislative Committee for the ASMA strongly supports passage of this legislation. Attached is some information which may be helpful to your committee in its deliberation.

We will very much appreciate that your committee give careful consideration to this legislation and we urge its passage. If we can answer further questions or provide additional inforamtion, we are pleased to do so.

Thank you for this consideration.

Sincerely,

carolyn Brown

carolyn V. Brown, M. D.
Chairperson, Legislative Committee

cVB:mlm
Enclosure

HEALTH INSURANCE ASSOCIATION OF AMERICA

CHICAGO • NEW YORK • WASHINGTON

LESLIE P. HEMRY, *President*

RESEARCH, STATISTICS, AND CONTROL DEPARTMENT

David Robbins, *Vice President and Controller*

New York Office
750 Third Avenue
New York, New York 10017

October 8, 1974

Mr. Vincent B. Jasso
Deputy Superintendent
State of New Mexico
Department of Insurance
Sante Fe, New Mexico 87501

Dear Mr. Jasso:

As I wrote you last week, we are in the process of developing estimated costs for the benefit provisions contained in the proposed New Mexico newborn infant coverage legislation. This data should be finalized in another few weeks.

In the interim, we learned from Mr. Young of the American Life Insurance Association that your Insurance Study Committee is scheduled to meet on October 10 and that you would be interested in the receipt of some preliminary results of our investigations. Our preliminary review of this matter indicates the following:

1. For those major medical contracts which now cover children from birth for sickness or injury and exclude only the first 7 days of hospital room and board charges while covering all other types of eligible expenses from birth, we estimate the additional cost of covering the first 7 days of nursery charges for sick infants to be about $.80 yearly per employee for group coverage and about $1.20 for individual coverage.

2. For a policy which provides no coverage at all for the first 14 days, we estimate the additional cost of the required coverage as approximately $3.20 yearly per employee for group coverage and $4.80 for individual coverage.

3. The exclusion of illegitimate children would make relatively little difference on the foregoing cost estimates.

Sincerely,

David Robbins

David Robbins
Vice President and Controller

DR:pw

cc: Mr. Franklin H. Young - ALIA
Mr. Caroll Callaway

Texas, Minnesota, Montana, North Carolina, and *Louisiana.* Thirteen other States have active pediatric committees working with their legislatures on laws that will include newborn care in comprehensive health insurance policies.

Another major concern is the manner in which coverage will be provided for children with handicapping conditions who require expensive, continuing care. At least some major medical insurance companies now exclude or limit payment for care of children with developmental disabilities. The Children's Hospital of *Pittsburgh, Pa.,* has reported difficulties in collecting fees from major medical insurance groups for care of such children. It cited these problems as being significant: employees are unaware of major medical fringe benefits for which they are eligible; special services, such as speech therapy and psychological testing, are frequently not covered by insurance plans; insurance companies do not reply after a bill is submitted.

The *New Jersey* State legislature has passed a bill establishing a program to provide funds to pay for health services for children with terminal illnesses. An advisory committee is being organized to prepare for the operation of the program.

The coverage of insurance currently available for mothers and children has been studied by Dr. Arthur J. Lesser, Director of MCHS. In a speech at Johns Hopkins Hospital in February 1973, Dr. Lesser identified six significant gaps that frequently occur in insurance coverage:

1. Family unit coverage excludes single people and people not living with a family. For example, most of the 200,000 unmarried adolescent girls who have babies each year are excluded from maternity and infant benefits, although they are a major high-risk group.
2. Maternity benefits do not begin until 9 months after the effective date of the policy. This means that many thousands of recently married couples find that their insurance does not include the birth of their first child.
3. Maternity benefits are reduced by deductibles and coinsurance intended to limit unnecessary hospitalization. The average hospital stay for obstetrics is less than 4 days; however, many policies do not cover the first 2 days and then require cost sharing by the patient.
4. Time limitations (coverage of the infant beginning 30 days after birth) and preexisting conditions (prior to birth) exclude insurance for premature infants and infants born with congenital anomalies.
5. Virtually all catastrophic illness insurance is planned for adults, yet the unexpected and unplanned costs of having a premature baby or a baby with congenital anomalies or costly acquired illnesses are enormous. Many young couples face "ruinous costs of a catastrophic nature under those circumstances."
6. Health insurance is basically a middle-class system and is not as responsive to the needs of many poor, disadvantaged, or handicapped. "It cannot be expected to substitute for many services characteristically provided by health departments and organized community health programs. This is particularly true of those services provided by staff other than physicians—that is, health education, screening and casefinding, public health nursing, social services, nutrition education, speech and hearing, and various appliances and prostheses."

In his speech at Johns Hopkins, Dr. Lesser went on to say he believes that clinical resources must be an integral part of any health care system financed by insurance.

Hospitals and Children

Among children under 17, the lower their family income, the greater the likelihood of hospitalization.

This is one of a number of facts that may be gleaned from data published by the National Center for Health Statistics on utilization of hospitals and other medical care. The data are based on health interviews conducted in 1968 and 1969.

For the 1968-69 period, hospital discharges per 1,000 population for children under age 17 amounted to 79.8 for children in families with less than $3,000 income, 74.3 for those with incomes from $3,000 to $3,999, dropped gradually to 58.9 when family income was $10,000 to $14,999, and reached the low point of 49.7 when incomes were $15,000 or more. On the other hand, only 23.3 percent of children living in families

STATE OF WASHINGTON

OFFICE OF THE GOVERNOR

OLYMPIA

DANIEL J. EVANS
GOVERNOR

February 16, 1974

To the Honorable, the House
of Representatives of the
State of Washington

Ladies and Gentlemen:

I am returning herewith without my approval as to certain items House Bill No. 1144 entitled:

"AN ACT Relating to health care."

This bill provides for coverage to newborn infants in various forms of health care service insurance coverage to close a gap that has long existed by the exclusion from coverage of newborn infants until a certain number of days after birth. As a result of this exclusion, many families have been hard hit by major medical expenses that could not have been anticipated.

Sections 1, 2, and 3 of the bill each contains an item that would exclude from the coverage provided to newborn infants "benefits for routine well-baby care." Nowhere in the bill is there a definition of what constitutes routine well-baby care, and without such definition exclusions could be written into future coverage that could well defeat the purpose of this bill.

Moreover, experts in pediatric care have long maintained that there is no such thing as a "well-baby" during the first 48 hours of an infant's life. During those critical first 48 hours, a newborn infant is highly susceptible to a number of potentially serious physical malfunctions, and the high degree of care necessary to carry a newborn infant through this period could be discouraged by a broadly written well-baby care exclusion in health care insurance contracts.

For these reasons, I have determined to veto the referenced items in sections 1, 2, and 3 of the bill. With the exception of those items, the remainder of House Bill No. 1144 is approved.

Respectfully submitted,

Daniel J. Evans
Governor

DJE:bg

IN THE LEGISLATURE
of the
STATE OF WASHINGTON

CERTIFICATION OF ENROLLED ENACTMENT

HOUSE BILL NO. 1144

CHAPTER NO.

Passed the House January 25, 1974

Yeas 95 *Nays* 4

Passed the Senate February 6, 1974

Yeas 44 *Nays* 0

The House concurred in the Senate amendments and passed the bill as amended, February 8, 1974.

Yeas 94 Nays 3

CERTIFICATE

I, Dean R. Foster, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is enrolled House Bill No. 1144 as passed by the House of Representatives and the Senate on the dates hereon set forth.

Dean R. Foster
Chief Clerk

(5) Intestinal tract - no "routine" feedings until patency and mobility of intestinal tract demonstrated (meconeum ileus intestinal obstruction) - no"routine"feedings until age 48 hours.

(6) Blood oxygen level and oxygen supply to organs subnormal until 24-48 hours.

(7) Infection: Special care to prevent "colonization" until age 48 hours.

(8) Lungs: Abnormal per x-ray until average age of 12 hours.

(9) General physiology (homeostasis) - instability of interacting body organs, fluids and functions, until age 48 hours.

(10) Seizures - due to low blood sugar, hypothermia, brain hemorrhage, etc., first signs or onset up to age 48 hours.

(11) Jaundice - (high blood bilirubin) due to Rh factor, other blood group incompatibility, liver malfunction, infection, etc., first signs or onset up to age 48 hours.

(12) Meningitis, blood stream sepsis, etc., first signs or onset up to age 48 hours.

Further information regarding special (non-well) infant care necessity for minimum of 48 hours:

a. Newborn infants not released from quality newborn nurseries (i.e., U. of W.) until after age 48 hours without parents signing an A.M.A. (Against Medical Advice) statement.

b. This year, Washington State Chapter, AAP, obtained $25-50,000 March of Dimes grant for statewide "Infant Care Program," Janet Murphy, M.D., director, to conduct appraisal and consultation service for care of newborn infants in the 97 hospitals in Washington State with newborn infant nurseries.

c. University of Washington Medical School and School of Nursing students are taught the 48 hour minimum special infant care policy.

Conclusion: The non-well newborn infant or special newborn infant treatment & care situation prevails for a minimum of 48 hours.

Summary prepared by:

Robert Polley

Robert Polley, M.D.

2/3/74

ORIGINAL DRAFT OF POSITION STATEMENT ON NEWBORN INS.

WASHINGTON STATE CHAPTER

American Academy of Pediatrics

2/3/74

POSITION STATEMENT ON NEWBORN INFANT MEDICAL INSURANCE
WASHINGTON STATE CHAPTER, AMERICAN ACADEMY OF PEDIATRICS (AAP)
(WASHINGTON STATE SOCIETY OF PEDIATRICS).

Consensus Summary developed by:

Washington State Chapter, AAP, Fetus and Newborn Committee:

Donald Sutherland M.D., Bellevue, Chairman
William A. Hodson, M.D., Director Newborn Service, University of Washington
Errol Alden, M.D., Director Newborn Service, Madigan General Hospital, Tacoma
David E. Woodrum, M.D., Dir. Newborn Service, Children's Orthopedic Hospital, Seattle.
Robert Polley, M.D., Seattle.

David Sparling, M.D., Tacoma; State Chapter Chairman, 1974.

Michael Donlan, M.D., Spokane; State Chapter Alternate Chairman, 1974

Robert A. Tidwell, M.D., Seattle, Chairman Legislative Committee.

Robert Polley, M.D., Seattle, Chairman 3rd Party (Medical Insurance) Committee.

Blackburn Joslin, M.D., Mercer Island, Past State Chairman.

Abraham Bergman, M.D., Director Outpatient Clinic, Children's Orthopedic Hospital, Seattle; President, National Foundation for Sudden Infant Death.

THOMAS C. COCK CHMN. DISTRICT VIII AAP.

Topics:

a. "Neonates" (newborn infants) do not become candidates for routine or well newborn infant care until age 48 hours at the earliest.

b. Information:

(1) Disappearance of lung fluid and lung aeration (expansion), approximately 48 hours.

(2) Establish normal heart function with disappearance of murmurs and reverse blood flow through foramen ovale and ductus - 24 to 48 hours.

(3) Temperature (thermal) instability; inability to maintain adequate body temperature without external added heat source - 24 to 48 hours.

(4) Fluid balance, acid base balance, kidney function, urine production, etc., unstable until age 24-48 hours.

(4)

FINAL DRAFT - 3/4/74

POSITION STATEMENT ON NEWBORN INFANT MEDICAL INSURANCE
WASHINGTON STATE CHAPTER, AMERICAN ACADEMY OF PEDIATRICS (AAP)
(WASHINGTON STATE SOCIETY OF PEDIATRICS).

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Blackburn Joslin, M.D. Bellevue; Past State Chairman.

Al Skinner, M.D., Mercer Island; Past State Chairman.

Abraham Bergman, M.D., Director Outpatient Clinic, Children's Orthopedic Hospital, Seattle; President, National Foundation for Sudden Infant Death.

Thomas C. Cock, M.D., Chairman, District VIII, AAP.

During the first nine months of life the human dwells in a warm aquatic environment. He receives his total nutritional support from his mother and, with a few exceptions, his bodily functions (e.g. gas exchange, endocrinologic, excretory) are accomplished by the placenta. With birth, the above situation is drastically altered in a very short period of time. There is, in fact, no age during life when so many major adaptations necessary for intact survival occur in such a short time span.

Immediate survival is accomplished by clearance of lung fluid, its replacement with air, and activation of surface active material lining the gas exchange surface of the lung. The result of these processes is an elevation of the oxygen tension in the arterial blood, an increase in pulmonary blood flow, and gradual closure of the fetal shunts (Foramen, Ovale and Ductus Arteriosus).

Adaptive processes of a more gradual but equally important nature involve the gastrointestinal tract - which for the first time must manifest patency from the mouth to the anus; the renal and genitourinary tract - must assume control of fluid and electrolyte balance, and solute excretion; metabolic and endocrine activities vital to nutritional homeostasis, growth and modifications of drugs or bodily breakdown products (e.g. bilirubin) necessary to facilitate excretion.

The newborn is at a further disadvantage in terms of his or her ability to adjust to a new environment. Heat losses may be extensive due to the inordinately high body surface to weight ratio that the small infant manifests, hence the ability to withstand environmental cold stress is severely compromised. Furthermore, inadequate or immature immunologic defense mechanisms impair the ability to ward off certain types of infection.

All of these transitions and/or adjustments occur or have as their major time of impact during the first 48 to 72 hours of life, and the vast majority of potentially anatomic, physiolgoic or biochemical deviations from normal may be recognized during this time period. With this in mind, it is the policy of this Committee as well as the recommendations of the Department of Pediatrics, Division of Neonatal Biology, University of Washington School of Medicine that optimum care for all newborn infants include a comprehensive physical examination, competent physician and nurse medical care and hospitalization during the first 48 hours of postnatal life.

R. Bailey
4/4/74.

HOUSE BILL NO. 1144

State of Washington
43rd Legislature
3rd Extraordinary Session

by Representatives Ceccarelli, Pardini and Perry

Read first time September 12, 1973, and referred to Committee on Financial Institutions.

AN ACT Relating to health care; adding a new section to chapter 48.20 RCW; adding a new section to chapter 48.21 RCW; adding a new section to chapter 48.44 RCW; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. There is added to chapter 48.20 RCW a new section to read as follows:

Any disability insurance contract providing hospital and medical expenses and health care services, delivered or issued for delivery in this state more than one hundred twenty days after the effective date of this 1974 act, which provides coverage for dependent children of the insured, shall provide coverage for newborn infants of the insured from and after the moment of birth. Coverage provided in accord with this section shall include, but not be limited to, coverage for congenital anomalies of such infant children from the moment of birth, but need not include benefits for routine well-baby care.

NEW SECTION. Sec. 2. There is added to chapter 48.21 RCW a new section to read as follows:

Any group disability insurance contract except blanket disability insurance contract, providing hospital and medical expenses and health care services, renewed, delivered or issued for delivery in this state more than one hundred twenty days after the effective date of this 1974 act, which provides coverage for the dependent children of persons in the insured group, shall provide coverage for newborn infant children of persons in the insured group from and after the moment of birth. Coverage provided in accord with this section shall include, but not be limited to, coverage for congenital anomalies of such infant children from the moment of

birth, but need not include benefits for routine well-baby care.

NEW SECTION. Sec. 3. There is added to chapter 48.44 RCW a new section to read as follows:

Any health care service plan contract under this chapter delivered or issued for delivery in this state more than one hundred twenty days after the effective date of this 1974 act, which provides coverage for dependent children of the insured or covered group member, shall provide coverage for newborn infants of the insured or covered group member from and after the moment of birth. Coverage provided in accord with this section shall include, but not be limited to, coverage for congenital anomalies of such infant children from the moment of birth, but need not include benefits for routine well-baby care.

NEW SECTION. Sec. 4. There is added to chapter 48.52 RCW a new section to read as as follows:

Any self insurer providing coverage or health care benefits or services for dependent children shall include coverage or health care service benefits or services for congenital anomalies of newborn children from the moment of birth.

NEW SECTION. Sec. 5. This 1974 act is necessary for the immediate preservation of the public peace, health and safety, the support of state government and its existing public institutions, and shall take effect immediately.

Passed the House February 6, 1974.

Speaker of the House.

Passed the Senate February 6, 1974.

President of the Senate.

Approved February 16, 1974
with the exception of certain
items which are vetoed.

Governor of the State of Washington -2-

HB 1111

Age of Majority—Amended various sections of the law to provide 18 as the age of majority. (Chapt. 94, Laws 1973.)

Autopsies—Amended the law "to require that a written report of all autopsies of a human body be sent to the physician attending the person at the time of death and to the hospital and skilled nursing facility where the person died in addition to other recipients as presently provided by law." (Sec. 69-5104, R.C.M. 1947).

Controlled Substances—Enacted a statute containing, to a substantial degree, the provisions of the Uniform Controlled Substances Act. (Chapt. 412, Laws 1973).

H.M.O.—A joint resolution provides for a study of Health Maintenance Organizations in other states. (S.J.R. 34.)

Malpractice—Added nursing home administrators and long-term care facilities to the list (which includes physicians, surgeons, and other health care professionals) of those: 1) against whom actions for malpractice must be commenced

> within three years after the date of injury or three years after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury whichever occurs last, but in no case may such action be commenced after five years from the date of injury. However, this time limitation shall be tolled for any period during which such person (the defendant) has failed to disclose any act, error, or omission upon which such action is based and which is known to him, or through the use of reasonable diligence subsequent to said act, error or omission would have been known to him.

2) against whom cancellations or increases in premium rates of professional liability insurance by reason of unfounded claims is prohibited, 3) to whom 60 days written notice of cancellation or increase in premium rates of professional liability insurance is required. (Secs. 93-2624, 40-4413 and 40-4414, R.C.M. 1947.)

Mental Illness—Enacted statutes establishing a program of protective services for the mentally disabled, and allowing "non-profit organizations to establish community homes for the developmentally disabled . . ." (Chapts. 508 and 373, Laws 1973.)

A joint resolution was enacted "declaring the rights of mentally retarded persons as to opportunities for normalization." (H.J.R. 11.)

Newborn Infants—Enacted a statute requiring tests for "inborn metabolic errors" of newborn infants. (Chapt. 227, Laws 1973.)

Montana

Newborn Insurance Coverage—Enacted a statute providing that "disability insurance policies and plans covering members of the insured's family as well as the insured shall grant immediate accident and sickness coverage, from and after the moment of birth, to each newborn infant of any insured." (Secs. 40-4002, 40-4002.1, and 40-4102, R.C.M. 1947.)

Osteopathy—Amended the law regarding reciprocity for doctors of osteopathy, to provide that those osteopathic physicians holding a degree of Doctor of Osteopathy granted after 1955, "will be certified in the same manner as provided for physicians." (Sec. 66-1025, R.C.M. 1947.)

Prenatal Care—Enacted a statute requiring a standard serological test for women seeking prenatal care.

The term "standard serological test" means "a test for syphilis, rubella immunity, and blood group . . ."

The statute provides that "every female, regardless of age or marital status, seeking prenatal care from a physician, is required to submit blood specimen for the purpose of a standard serological test."

The statute mandates confidentiality of the test results. The unauthorized disclosure of such information is a misdemeanor.

A district court may waive the requirements of the Act if the judge is satisfied that

patients. Among numerous other rights, the Act provides that each patient has a right to have an individual treatment plan setting forth a program which will develop or restore his capabilities. (G.S. 122-45.1-7; 122-36; and 20-17.1.)

North Carolina

Newborn Infants—Mandatory Insurance Coverage—Enacted a statute to provide mandatory insurance coverage for newborn infants from "the moment of birth of such child" in all policies providing coverage of minor children.

The Act provides that "benefits in such insurance policies or plans shall be the same for congenital defects or anomalies as are provided for most sicknesses or illnesses suffered by minor children which are covered by said policies or plans." (G.S. 58-251.4.)

Nurses—Expanded Scope of Practice—Amended the Nurse Practice Act and the Medical Practice Act to allow nurses to perform certain medical acts.

A joint committee of the board of nursing and the board of medical examiners is to "develop rules and regulations to govern the performance of medical acts by registered nurses."

The board of medical examiners has the responsibility for securing compliance with the regulations. (G.S. 90-158(3)a; 90-162; 90-167.1, 90-170(2)c; 90-18, and 90-6.)

Also, the Hospital, Medical and Dental Service Corporation Acts, and the Insurance Act were amended to provide that reimbursement shall not be denied to "any agency, institution or physician providing a service for which payment or reimbursement is required to be made . . ." under a policy or contract because such services were provided through a registered nurse acting under the authority of the above legislation and appropriate regulations. (G.S. 58-259.2; 57-3.2.)

Optometry—Enacted a new statute governing the licensure and regulation of optometrists.

One provision states that a patient shall not be denied "the freedom to choose a duly licensed optometrist or duly licensed physician as the provider of care or services which are within the scope of practice of the profession of optometry . . ." through any action of any state, county or municipal agency or board. (Chapt. 800, Laws 1973; G.S. 9-117 to 90-124.)

Rate Review—Enacted a resolution authorizing and directing the Public Health Committee in the Senate and the House of Representatives to study the need for and means of review for regulation of hospitalization rates and charges. (H.J.R. 1244.)

Rural Health—Enacted a statute creating a Rural Community Health Assistance Division within the Department of Human Resources. (Chapt. 627, Laws 1973.)

Workmen's Compensation—Amended the law to provide for increased medical benefits, including rehabilitation services for injured employees. (Chapt. 520, Laws 1973.)

NORTH DAKOTA

Abortion—Adopted a resolution requesting the Congress of the United States to propose an amendment to the U.S. Constitution for ratification by the states "which will guarantee the right of the unborn human to life throughout its intrauterine development subordinate only to saving the life of the mother, and will guarantee that no human life shall be denied protection of law or deprived of life on account of age, sickness, or condition of dependency."

The Resolution noted that "77% of those voting in the November 7, 1972 general election in North Dakota rejected abortion as an alternative to solving the problems of maternal and prenatal and natal health . . ." (S.C.R. 4069).

Alcoholism—Enacted a resolution recognizing that "alcoholism is the third largest health problem in North Dakota" and "expressing support and encouragement for

Kidney Disease—Enacted a statute providing for the establishment of a program relating to the prevention, care and treatment of chronic kidney disease, and creating a Division of Kidney Health Care within the State Department of Health.

Under the Act, kidney care services are to be provided "directly or through public or private resources". The repayment of certain treatment costs, as well as the expansion of educational programs concerning chronic kidney disease are, also, provided for in the Act. (Vernon's Ann. Civ. St. Art. 4477-20.)

Medical Student Loans—Enacted a statute creating the State Rural Medical Education Board.

Duties of the Board will include providing "loans, grants or scholarships to students desiring to study medicine and agreeing to practice in rural areas."

The Act provides that

> if the applicant practices his profession in a rural area as defined by this Act the Board is authorized and shall credit one-fifth of the loan, grant or scholarship together with interest thereon to the applicant for each year of such practice as certified by the board.
>
> At the end of the second full year of practice in a rural area as provided for herein, the applicant shall be privileged to pay off the balance of the loan, grant or scholarship as the case may be with accrued interest thereon, and upon such payment shall be relieved from further obligation under his contract. Should the applicant default under his contract at any time the full principal and accrued interest plus a penalty of 10% of the outstanding balance plus attorneys' fees as defined by said contract shall be due and owing to the state.

Applicants must enter into a contract agreeing to practice in a rural area before being granted a loan. The statutory provision is as follows

> Each applicant before being granted a loan, grant or scholarship shall enter into a contract with the Board which shall be deemed a contract within the State of Texas, agreeing to the terms and conditions upon which the loan or scholarship shall be granted to him, which said contract shall include such terms and provisions as will carry out the full purpose and intent of this Act, and the form thereof shall be prepared and approved by the Attorney General of this State, and shall be signed by the Chairman of the Board, countersigned by the Secretary, and shall be signed by the applicant.

For purposes of entering into contracts under the Act, applicants under the age of 21 may do so with the same authority and validity as applicants 21 years of age or older.

The term "rural areas" means "a county of the state of Texas which according to the last preceding Federal Census had a population of less than 25,000." (Vernon's Ann. Civ. St. Art. 4498c.)

TEXAS

Newborn Health Insurance Coverage—Enacted a statute prohibiting the issuance or delivery of any accident and sickness insurance policy within the state "which provides for accident and sickness coverage of additional newborn children or maternity benefits" if such policy "contains any provisions excluding or limiting initial coverage of a new born infant for a period of time, or limitations or exclusions for congenital defects of a newborn child."

An insurer "may charge such additional premiums as are just and reasonable for the additional risk incurred by compliance with this Act." (Adds Subsec. D to Article 3.70-2, Vernon's Texas Insurance Code.)

Podiatry—Enacted a statute authorizing the creation of a College of Podiatry within the University of Texas educational system. (Adds Subchapt. J to Chapt. 74, Education Code.)

Workmen's Compensation—Among numerous amendments to the Workmen's Compensation Law, one grants the employee "the sole right to select or choose the persons or facilities to furnish medical aid, chiropractic services, hospital services . . ." (Vernon's Ann. Civ. St. Art. 8306, Sec. 7.)

	Citation	Effective Date	Comments
Alabama			
Alaska			
Arizona	H. 2185	1974	Substantially the model bill
Arkansas			
California		1973	
Colorado			
Connecticut	H. 5040	1974	Model bill in substance
Delaware			
Florida	S. 76	1974	Model without notice paragraph
Georgia	H. 995	11-1-74	Model w/ well baby excluded.
Hawaii	H. 2915	6-12-74	Model bill
Idaho	S. 1316	7-1-74	Interpreted as the model bill
Illinois			
Indiana			
Iowa	S. 1290	1974	Model bill
Kansas	H. 1795	1974	Model bill
Kentucky			
Louisiana		7-2-73	
Maine			
Maryland	H. 498	1974	Model bill
Massachusetts			
Michigan			
Minnesota		1973	
Mississippi	S. 1829	1974	Deviates from model bill
Missouri	H. 1487	1974	Model bill
Montana		1973	
Nebraska			
Nevada			
New Hampshire			
New Jersey			
New Mexico			
New York			
North Carolina		1973	
North Dakota			
Ohio	S. 330	1-1-75	Substantially model bill
Oklahoma			
Oregon			
Pennsylvania			
Rhode Island			
South Carolina			
South Dakota	H. 1818	7-1-74	Model bill
Tennessee	H. 1386	7-1-74	Substantially model bill
Texas		1973	
Utah			
Vermont			
Virginia			
Washington	H. 1144	2-16-74	Model bill.
West Virginia			
Wisconsin			
Wyoming			

Neonate Insurance Inclusion Now Required in 21 States

World Medical Reports

EVANSTON, Ill. — Legislation requiring all health insurance policies to include coverage for neonates from the moment of birth is now on the books in 21 states—14 more than at the beginning of the year —and the advocates of such legislation expect favorable action in a dozen other states in the next 12 months.

Leading the campaign to eliminate the exclusion of coverage for newborns are the American Academy of Pediatrics, its Committee on Third Party Payment Plans, and the AAP's state chapters.

Coverage of newborns from the time of birth is now required in the insurance laws of Arizona, California, Connecticut, Florida, Georgia, Hawaii, Idaho, Iowa, Kansas, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Montana, North Carolina, South Carolina, South Dakota, Tennessee, Texas, and Washington.

In the states where exclusion of newborns from insurance coverage has not been prohibited, instances have been recorded by state chapters of the American Academy of Pediatrics in which parents have found themselves confronted with hospital bills of $12,000, $27,000 and even larger amounts. In Akron, Ohio, a $50,000 hospital bill for a newborn's intensive care was reported.

14 Day Exclusions

Dr. Donald W. Schiff, of Littleton, Colo., chairman of the AAP's Committee on Third Party Payment Plans, told this newspaper that the period of exclusion in many insurance policies was the first 14 days of life.

A common practice of health insurance companies is to "extend the exclusion of the newborn until the child is discharged from the hospital" if the child needs above-average care during its first 14 days, said Dr. Schiff, of the University of Colorado Medical School and senior pediatrician at the Littleton Clinic, Denver.

"As an example, a newborn with difficulty on its first day who must be kept in intensive care for 30 days may be under the exclusion from coverage for the entire 30-day period," said Dr. Schiff, who is also the chairman of the Colorado chapter of the American Academy of Pediatrics.

The Committee on Third Party Payment Plans has drafted a model bill and circulated it to all state chapters of the AAP. This action was taken after a mass of information had been assembled about the financial calamities striking parents as the result of the exclusion of newborns from health insurance coverage.

The model bill is used by AAP members in the various states in their efforts to obtain remedial legislation.

The committee, in a letter sent to the state chapters, scored "the continued existence of exclusionary periods of coverage for newborn infants in a large number of health insurance plans."

"Failure of these plans to provide coverage for infants from the moment of birth is a valueless, discriminatory practice that results in the risk of needless potentially large financial burdens being placed on young parents," the letter said.

The model bill or state insurance legislation amended to conform with the model bill "is the way young couples can be helped in meeting this expensive situation through their health insurance," Dr. Schiff said.

Dr. Schiff

"We think young parents should not be

(Continued on page 72)

Newborns Under the Law of 21 States

(Continued from page 2)

penalized for having a newborn with a major problem."

The AAP's model bill provides that the coverage of dependents in policies shall include coverage for infants from the moment of birth. The draft calls for treatment for injury, sickness, congenital defects, and birth abnormalities.

Of the 29 states that have not yet enacted legislation making the inclusion of newborn coverage mandatory, efforts to obtain such legislation were underway this year in 24, said Albert C. Stolper, an aide to the Committee on Third Party Payment Plans.

Insurance carriers in Texas, Louisiana, and Georgia provided estimates of the cost involved if newborn coverage from the moment of birth were to be added. The figures were as follows: Texas, 45-55 cents per month per family contract; Louisiana, 50 cents per month per family contract; and Georgia, 15-30 cents per month per family contract.

AMA Backing

In California, Blue Cross discovered that the cost of adding coverage for newborns was so small that it was unnecessary to increase the premiums "for either individual policies or group policies," Mr. Stolper said.

The American Medical Association has given its backing to the efforts of the American Academy of Pediatrics. After listening to the testimony of AAP representatives, the AMA's House of Delegates, at its New York meeting in June, 1973, adopted a resolution that said the American Medical Association supported "the eradication from health insurance policies sold in various states of the 'first 14 days' and other exclusionary clauses affecting children."

Dr. Schiff said the Committee on Third Party Plans, in developing its model bill, worked closely with the Health Insurance Association of America.

"Our objective has been to obtain the cooperation of the insurance companies and to use the legislative process in the states to solve the problem of newborn exclusion from coverage in a constructive way," the committee chairman said.

"There can be no question that coverage for newborns is very important, but unless this kind of experience has touched one's own family, chances are that you won't be aware of the problem.

"It has been assumed, not only by members of the public but also by many pediatricians and other physicians, that coverage for newborns is always in effect. In over half of the states this is not so. What we are trying to do is to obtain the legislation that will take care of the many people who are not covered for newborns at the present time," Dr. Schiff said.

Testimony by John Coogan

MEMO TO FILE

HB-128

2-7-75

This bill would require that any insurance policy or indemnity type contract providing health coverages on an expense incurred basis, include coverage for newly born children. This particular bill is nearly identical with a model bill prepared by the American Academy of Pediatrics with the assistance of the Health Insurance Association of America. This bill was endorsed by the National Association of Insurance Commissioners. As of June, 1974, this bill was law in 17 states and pending in 10 more. Considering that the model was developed in November, 1973, its popularity and passage in this many states is remarkable.

3-10-75

HEARING BEFORE HOUSE HESS. - BILL PASSED OUT WITH UNAN. DO PASS.

3-18-75

HEARING BEFORE HOUSE COMMERCE -

128

Thanks for your interest -
Pass material on also to Lowell Thomas Jr.
Pres Natl Bd also
--- 99510 D Fleischman

January 17, 1974

The Honorable Helen Beirne
Alaska State House of Representatives
Juneau, Alaska 99801

Dear Dr. Beirne:

The Alaska Chapter of the American Academy of Pediatrics is very concerned about the frequent lack of health insurance coverage for newborn infants. Very exciting new advances in the care of prematures or ill newborns has resulted in a significant decrease in deaths and serious life long disability in these infants. This care obviously is very expensive.

Probably the majority of families in Alaska carry health insurance but many are not aware that this policy will not cover a newborn infant. This, we feel, is grossly unfair to these infants and can be financially crippling to their families (often young couples with marginal incomes).

The attached resume prepared at Providence hospital demonstrates that many of the significant insurance carriers in Alaska do not cover newborns except after a 14 day exclusary period. We particularly call your attention to the groups such as laborers, carpenters, and teamsters where the insurance is probably an employment benefit and the average employee would assume that their family is protected.

The Academy of Pediatrics has been active nationally in bringing this to the attention of legislators. In Alaska we are asking that you consider regulations that would require all health insurance policies to cover newborn infants without exclusion. Enclosed is a model law, drafted by Mr. Carroll Calloway, Assistant General Counsel for the Health Insurance Association of America. Similar legislation has been passed by 7 states and is being considered by 25 others.

I have discussed this problem with the Insurance Commissioner in Alaska, Mr. O'Shea, and he is well informed about the problem and would be prepared to testify if called.

We are aware that similar legislation relating to mental health problems is being considered. We feel our concern about coverage for newborns should be addressed as a separate issue but will leave this to your judgment.

We can supply further information if necessary for any testimony in this matter.

Thank you for your consideration.

Sincerely yours,

J. Kenneth Fleshman, M.D.
Chairman, Alaska Chapter
American Academy of Pediatrics

Richard Peterson, M.D.
Alternate Chairman

Attachments: 2

cc: Rodman Wilson, M.D., AMA
John O'Shea, Insurance Commissioner, State of Alaska

Same letter to Senator Lowell Thomas, Jr.

128

STATE
of ALASKA

MEMORANDUM

TO: Frederick McGinnis
Commissioner

THRU: Donald K. Freedman, M.D., M.P.H.
Director, Division of Public Health

DATE : September 27, 1974

FROM: David A. Spence, M.D., Chief
Section of Family Health

SUBJECT: Proposed legislation for the 1975 Legislature.

In the last legislative session, Senate Bill 359 was introduced on February 11, 1974, by Senator Lowell Thomas. This Bill would have required that newly-born children be included in group health and disability insurance. This Bill was tied to insurance for alcoholism and was still in committee at the close of the legislative session.

The need for this legislation is greater this year because advances in neonatal care, while preserving intellect and life itself for the premature, are more expensive. We request that this Bill be submitted in essentially the same form again in this next legislative session. Your submission of this legislation will indicate its importance to the legislators and the public as well.

DAS/lb

cc: Dr. Carolyn Brown, Legislative Committee, ASMA

MEMORANDUM December 5, 1973

TO: GARY WANGSMO, Controller

FROM: Bob Harvey, Business Office Manager

SUBJECT: Coverage for infants

Insurance companies generally offer an employer several ways of providing coverage for newborn babies under group health insurance plans. They are:

1) Coverage from birth, limited: In this case, the infant is covered from birth but only for treatment of a disease, injury, congenital deformity or hereditary complications. Prematurity, per se, is not covered.

2) Coverage from birth, full: The infant is covered from birth including the cost of nursery, normal baby care, and special care for prematurity.

3) Coverage after a certain number of days--commonly 14 days: The infant is covered only after the first 8 or 14 days of life. This is further restricted, in some plans, to require that the infant be not only a certain number of days old but also free of confinement (not hospitalized) before the coverage will take effect.

The following is a partial list of companies and the coverage their plans provide for newborns:

AAA Auto Club of Washington	Birth full
Anchorage Cold Storage	Birth full
Anchorage Daily Times	Birth full
Alaska State Employees	Birth full
Alaska Bar Association	Birth full
Alaska Lumber and Pulp	Birth full

Alaska Medical Laboratories	Birth limited
Alaska Methodist University	Birth full
Alaska National Bank	Birth limited
Alaska Pacific Assureance	Birth limited
Alaska Painters	15 days
Alaskan Seafoods	Birth limited
Alaska State Housing Auth.	Birth full
Alexander and Alexander	15 days
Anchorage Borough School	Birth full
Army and Air Force Exchange	15 days
A. J. Johnson	Birth limited
Arthur Young and Co.	Birth limited
Automotive Parts and Equipment	Birth limited
B & C Auto Supply	Birth full
Bekins Moving and Storage	Birth limited
Carpenters	14 days (coverage from birth under major medical)
Carr's	Birth full
City of Anchorage	Birth full
Community Hospital	Birth full
Crawford & Co.	Birth limited
Culinary Employees	Birth limited
Fairbanks Municipal Utilities	Birth full
Fairbanks Plumbing and Pipefitting	Birth full
Fairbanks Publishing Co.	Birth full
Federal Employees	Birth full
First National Bank	Birth full
Anchorage Borough	Birth full
Hickel Investment	Birth full
Hotel and Restaurant Employees	Birth full
I. B. M.	Birth full
Ironworkers	Birth full
Kenai Penninsula Borough and Schools	Birth full
Laborers	14 days (from birth under major medical)
Matanuska Maid	Birth full
Meadowmoor Alaska Dairy	Birth limited
Merder, Schaible, Staley, & Delisio	Birth limited
N. B. of A.	Birth full
North Star Borough Schools	Birth full
O'Neill & Sons	Birth full
Operating Engineers	8 days
Petersburg Fisheries	Birth full
Plumbers	Birth full
Providnece Hospital	Birth full
Retail Food Clerks	Birth full
Sheet Metal Workers	Birth full
Teamsters	14 days and free of confinement
University of Alaska	Birth full

These different coverage options reflect efforts to reduce claim costs and premiums. Basically, an insurance company will sell whatever coverage a policyholder is willing to pay for but there is a trend toward making coverage from birth--full the standard benefit. Of course, "full" coverage does not necessarily mean 100% coverage since there may be deductibles, co-insurance and policy limits.

Following are some examples of NBSCN bills incurred at Providence over the past six months which reflect the variations in insurance benefits and coverage:

Days Hospitalized	Amount	Insurance	Amt. Pd. by Ins.
32	$5,470.30	Teamsters	--0--
19	3,926.65	Teamsters	--0--
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7	1,171.75	Blue Cross	937.40
10	1,563.63	Medicaid	1,563.63
2	166.00	Aetna thru Fed. Gov't.	22.50
4	644.00	Equitable thru Standard Oil	644.00
3	318.25	Fireman's Fund (Liability)	318.25
4	1,100.00	Champus	1,100.00
17	1,790.25	Equitable thru N. C.	1,708.00
46	8,934.90	Medicaid	8,934.00
15	2,859.10	Aetna	2,680.53
3	245.13	Medicaid	245.13
3	255.50	Medicaid	255.50
23	3,072.25	Teamsters	Written off to Charity
22	2,187.88	Aetna thru Fed. Gov't	1,750.30
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55	10,527.00	Champus	10,447.00
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11	2,478.50	A. N. S.	2,478.00
5	440.00	Medicaid	440.00
2	204.75	B. C. thru Cordova Hosp.	123.80
20	5,492.50	B. C. thru State	4,747.68
17	2,900.00	Westcoast Life thru Reeve Aleutian	--0--
1	39.50	B. C. thru Providence	39.50
4	700.75	Double coverage:	
		Teamsters	--0--
		Hotel & Restaurant	--0--
12	2,604.25	B. C. of Louisiana	1,292.75
23	4,137.05	Blue Cross	3,911.30
6	1,113.50	B. C. thru State	860.40
4	657.75	Medicaid	657.75
TOTAL	$84,859.60		$64,395.12

Difference to be paid by patient or absorbed by hospital:

Alaska State Legislature

House

JUNEAU ALASKA

HESS COMMITTEE MEETING

3-10-75

Members Present:

Beirne	Parr
Davis	Sullivan
Hackney	Swanson
Osterback	

Chairman Sullivan called the meeting to order at 3:15.

The first thing I would like to discuss is pertaining to the confirmation of Dr. Williamson. I would like to know your feelings of maybe getting together with him informally, perhaps in the evening on Wednesday, March 12, on a social basis at my house. Would that date be alright with all of you?

Beirne I would request we act on the Commissioner today?

Chairman Sullivan Personally, I have a few more questions to ask him before making my decision. I know that Mr. Hackney and Mr. Swanson feel the same way. I would not want to call another hearing for these few questions. Our hearings on his confirmation this weekend in Anchorage showed tremendous support for his confirmation.
Are there any other announcements?

HB 120

Beirne Gave a briefing of the bill. Its purpose is to include Optomotrists under the Medicade Program Act. The Fiscal note indicates the cost of $38,500 for 1975 year. Presently their are not enough opthomologists to care for all of the needs throughout the state and at the present time they are the only Doctors under the Medicade Act.

Hackney Where did they get the figure of 1150 people that would use this service in the position paper in front of us?

Beirne I am not sure of this. This bill will not change the Medicade Act in any way. I would request we ask Mr. Larry Sullivan from the Dept. of H&SS to testify on this question and perhaps we could take up HB 128 until he gets here.

HB 128 Ms. Sullivan gave briefing of her bill. Intented to make insurance available for newborns from the moment of birth. I am interested in it because of my own experience. Before my son was a week old we had thousands of dollars of medical bills and could not get coverage. This seems to me a very logical form of insurance. The bill does not say the state should pay for it only that it should be available to all residents of the state. The increase in the premium cost would only be 5 or 10 cents more.

Hackney I am in favor of this bill.

Don Cooke Div. of Insurance
This bill would require that any insurance policy would include care for the newborn infant. This bill was endorsed by the National Insurance Directors Assoc. and on June 1974 it was law in 17 states and pending in 10 more. We didn't prepare a fiscal note because there wasn't any. The impact on the general fund would be nothing also.

Hackney Insurance is presently provided on the basis of what?

Cooke From day one on Blue Cross for state employees.

Beirne I would presume this would be an option?

Cooke No, I read it as mandatory coverage. Meaning mandate that they have to offer it, Line 15-16.

Beirne I favor this bill and for no cost to the state it seems most worthwhile.

Hackney= This bill would also give the tax payers alittle break.

Parr I move we pass HB 128 out of committee with a 'do pass' recommendation.
Chairman Hearing no objection, so ordered.

Cooke I would also like to add that SB 141 is exactly the same bill.

HB 120

Mr. Larry Sullivan Dept. of H&SS

Beirne We have the position paper and the fiscal note. Would like to ask you how you arrived at the figure of 1150 people who would take advantage of these services?

Sullivan This is the approximate number of people that would require these services. It would involve a $38,000 increase in our budget. We do not provide glasses. The only service they will receive is the refraction. Glasses are available on a very limited basis. Available to children under the Medicade Act for early treatment. Eye, Ear, and Teeth Care for Children up to the age of 21 is mandate under the Federal Program.

Parr How much of this bill is new? Just the Opthologist?

Sullivan Yes, the original bill says 'physician services'.

Parr To what extent are private agencies making glasses available?

Sullivan There is a fair chance of people getting glasses. We refer them to their local Lions Club etc. That is limited however.

Beirne The BIA and USPHS also will buy glasses. Explained difference between opthomologist and optometrist.

Hackney How was it that you arrived at the 1150 figure?

ENGSTROM AND EVANS

ATTORNEYS AT LAW

ALLAN A. ENGSTROM
GORDON E. EVANS

202 NATIONAL BANK OF ALASKA BUILDING TELEPHONE (907) 586-1445

JUNEAU, ALASKA 99801

February 19, 1975

Ms. Susan Moss
Health Education & Social Services
Pouch V
Juneau, Alaska 99811

Re: House Bill 128

Dear Ms. Moss:

In our recent telephone conversation, you indicated that the House Health, Education and Social Services Committee was interested in the approximate cost impact of House Bill 128, as it relates to coverage for new-born infants.

Although it is difficult to be precise, Blue Cross Washington Alaska, Inc., which already provides such coverage in all of its policies, estimates the effect on premium to be approximately one per cent. This is based on a competitive benefit level, in using birth as an effective date as opposed to starting coverage at age 30 days.

Let me try to be more precise by means of an example:

1. Assume that coverage A covers children at birth and coverage B covers children after 30 days.

2. Assume that all other aspects of coverage A and coverage B are identical with respect to benefits.

3. If the monthly family rate for coverage B was $60.00, then the family rate for coverage A would be approximately 1% higher, or $60.60.

Please let me know if you have any other questions.

Very truly yours,

ALLAN A. ENGSTROM
Legislative Counsel for
Blue Cross Washington Alaska, Inc.

AAE:rhm

STATE
of ALASKA

MEMORANDUM

TO: Frederick McGinnis
Commissioner

THRU: Donald K. Freedman, M.D., M.P.H.
Director, Division of Public Health

FROM: David A. Spence, M.D., Chief
Section of Family Health

DATE: September 27, 1974

SUBJECT: Proposed legislation for the 1975 Legislature.

In the last legislative session, Senate Bill 359 was introduced on February 11, 1974, by Senator Lowell Thomas. This Bill would have required that newly-born children be included in group health and disability insurance. This Bill was tied to insurance for alcoholism and was still in committee at the close of the legislative session.

The need for this legislation is greater this year because advances in neonatal care, while preserving intellect and life itself for the premature, are more expensive. We request that this Bill be submitted in essentially the same form again in this next legislative session. Your submission of this legislation will indicate its importance to the legislators and the public as well.

DAS/lb

cc: Dr. Carolyn Brown, Legislative Committee, ASMA

MODEL NEWBORN CHILDREN BILL

Prepared by the American Academy of Pediatrics
with the assistance of
The Health Insurance Association of America
November 21, 1973

All individual and group health insurance policies providing coverage on an expense incurred basis and individual and group service or indemnity type contracts issued by a nonprofit corporation which provide coverage for a family member of the insured or subscriber shall, as to such family members' coverage, also provide that the health insurance benefits applicable for children shall be payable with respect to a newly born child of the insured or subscriber from the moment of birth.

The coverage for newly born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities.

If payment of a specific premium or subscription fee is required to provide coverage for a child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer or nonprofit service or indemnity corporation within 31 days after the date of birth in order to have the coverage continue beyond such 31 day period.

The requirements of this act shall apply to all insurance policies and subscriber contracts delivered or issued for delivery in this state more than 120 days after the effective date of the act.

Newborn bill

HB 128

PROBLEM:

Health insurance coverage in Alaska frequently does not provide for health care for newborn infnats. Such insurance policies written in Alaska presently specifically exclude coverage for infants in the first thirty, sixty, or ninety days of life.

The newborn infant is vulnerable to many health problems. Prematurity and congenital defects often require medical care of an urgent and sophisticated nature.

The cost of this care is presently borne by a combination of families, health care providers (such as physicians and hospitals), governmental agencies (federal, state, and local), and insurance carriers.

By exclusion of newborn health care from their coverage, some insurance carriers are excluding this vulnerable newborn population from their coverage.

PROPOSAL:

The legislative committee of the Alaska State Medical Association and the Alaska Chapter of the American Academy of Pediatrics recommend that health care coverage for newborn infants be included in all health insurance policies written in Alaska.

MEMORANDUM December 5, 1973

TO: GARY WANGSMO, Controller

FROM: Bob Harvey, Business Office Manager

SUBJECT: Coverage for infants

Insurance companies generally offer an employer several ways of providing coverage for newborn babies under group health insurance plans. They are:

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Difference to be paid by patient or absorbed by hospital: $19,962.97

NEWBORN CHILDREN BILL

From a model prepared by the American Academy of Pediatrics
with the assistance of
The Health Insurance Association of America
November 21, 1973

All individual and group health insurance policies providing coverage on an expense incurred basis and individual and group service or indemnity type contracts issued by a nonprofit corporation which provide coverage for a family member of the insured or subscriber shall, as to such family members' coverage, also provide that the health insurance benefits applicable for children shall be payable with respect to a newly born child of the insured or subscriber from the moment of birth.

The coverage for newly born children shall include, but not be limited to, coverage for congenital defects, birth abnormalities, or other complications of birth, including prematurity or low birth weight.

If payment of a specific premium or subscription fee is required to provide coverage for a child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer or nonprofit service or indemnity corporation within 31 days after the date of birth in order to have the coverage continue beyond such 31 day period.

The requirements of this act shall apply to all insurance policies and subscriber contracts delivered or issued for delivery in this state more than 120 days after the effective date of the act.

HEALTH INSURANCE ASSOCIATION OF AMERICA

CHICAGO • NEW YORK • WASHINGTON

LESLIE P. HEMRY, *President*

RESEARCH, STATISTICS, AND CONTROL DEPARTMENT
David Robbins, *Vice President and Controller*

New York Office
750 Third Avenue
New York, New York 10017

October 8, 1974

Mr. Vincent B. Jasso
Deputy Superintendent
State of New Mexico
Department of Insurance
Sante Fe, New Mexico 87501

Dear Mr. Jasso:

As I wrote you last week, we are in the process of developing estimated costs for the benefit provisions contained in the proposed New Mexico newborn infant coverage legislation. This data should be finalized in another few weeks.

In the interim, we learned from Mr. Young of the American Life Insurance Association that your Insurance Study Committee is scheduled to meet on October 10 and that you would be interested in the receipt of some preliminary results of our investigations. Our preliminary review of this matter indicates the following:

1. For those major medical contracts which now cover children from birth for sickness or injury and exclude only the first 7 days of hospital room and board charges while covering all other types of eligible expenses from birth, we estimate the additional cost of covering the first 7 days of nursery charges for sick infants to be about $.80 yearly per employee for group coverage and about $1.20 for individual coverage.

2. For a policy which provides no coverage at all for the first 14 days, we estimate the additional cost of the required coverage as approximately $3.20 yearly per employee for group coverage and $4.80 for individual coverage.

3. The exclusion of illegitimate children would make relatively little difference on the foregoing cost estimates.

Sincerely,

David Robbins

David Robbins
Vice President and Controller

DR:pw

cc: Mr. Franklin H. Young - ALIA
Mr. Caroll Callaway

ORIGINAL DRAFT OF POSITION ...

WASHINGTON STATE CHAPTER ON NEWBORN INS.

American Academy of Pediatrics

2/3/74

POSITION STATEMENT ON NEWBORN INFANT MEDICAL INSURANCE
WASHINGTON STATE CHAPTER, AMERICAN ACADEMY OF PEDIATRICS (AAP)
(WASHINGTON STATE SOCIETY OF PEDIATRICS).

Consensus Summary developed by:

Washington State Chapter, AAP, Fetus and Newborn Committee:

Donald Sutherland M.D., Bellevue, Chairman
William A. Hodson, M.D., Director Newborn Service, University of Washington
Errol Alden, M.D., Director Newborn Service, Madigan General Hospital, Tacoma
David E. Woodrum, M.D., Dir. Newborn Service, Children's Orthopedic Hospital, Seattle.
Robert Polley, M.D., Seattle.

David Sparling, M.D., Tacoma; State Chapter Chairman, 1974.

Michael Donlan, M.D., Spokane; State Chapter Alternate Chairman, 1974

Robert A. Tidwell, M.D., Seattle, Chairman Legislative Committee.

Robert Polley, M.D.; Seattle, Chairman 3rd Party (Medical Insurance) Committee.

Blackburn Joslin, M.D., Mercer Island, Past State Chairman.

Abraham Bergman, M.D., Director Outpatient Clinic, Children's Orthopedic Hospital, Seattle; President, National Foundation for Sudden Infant Death.

THOMAS C. COCK CHAN. DISTRICT VIII AAP.

Topics:

a. "Neonates" (newborn infants) do not become candidates for routine or well newborn infant care until age 48 hours at the earliest.

b. Information:

(1) Disappearance of lung fluid and lung aeration (expansion), approximately 48 hours.

(2) Establish normal heart function with disappearance of murmurs and reverse blood flow through foramen ovale and ductus - 24 to 48 hours.

(3) Temperature (thermal) instability; inability to maintain adequate body temperature without external added heat source - 24 to 48 hours.

(4) Fluid balance, acid base balance, kidney function, urine production, etc., unstable until age 24-48 hours.

Adaptive processes of a more gradual but equally important nature involve the gastrointestinal tract - which for the first time must manifest patency from the mouth to the anus; the renal and genitourinary tract - must assume control of fluid and electrolyte balance, and solute excretion; metabolic and endocrine activities vital to nutritional homeostasis, growth and modifications of drugs or bodily breakdown products (e.g. bilirubin) necessary to facilitate excretion.

The newborn is at a further disadvantage in terms of his or her ability to adjust to a new environment. Heat losses may be extensive due to the inordinately high body surface to weight ratio that the small infant manifests, hence the ability to withstand environmental cold stress is severely compromised. Furthermore, inadequate or immature immunologic defense mechanisms impair the ability to ward off certain types of infection.

All of these transitions and/or adjustments occur or have as their major time of impact during the first 48 to 72 hours of life, and the vast majority of potentially anatomic, physiolgoic or biochemical deviations from normal may be recognized during this time period. With this in mind, it is the policy of this Committee as well as the recommendations of the Department of Pediatrics, Division of Neonatal Biology, University of Washington School of Medicine that optimum care for all newborn infants include a comprehensive physical examination, competent physician and nurse medical care and hospitalization during the first 48 hours of postnatal life.

R. Bailey
4/4/74.

(4)

FINAL DRAFT - 3/4/74

POSITION STATEMENT ON NEWBORN INFANT MEDICAL INSURANCE
WASHINGTON STATE CHAPTER, AMERICAN ACADEMY OF PEDIATRICS (AAP)
(WASHINGTON STATE SOCIETY OF PEDIATRICS).

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Al Skinner, M.D., Mercer Island; Past State Chairman.

Abraham Bergman, M.D., Director Outpatient Clinic, Children's Orthopedic Hospital, Seattle; President, National Foundation for Sudden Infant Death.

Thomas C. Cock, M.D., Chairman, District VIII, AAP.

During the first nine months of life the human dwells in a warm aquatic environment. He receives his total nutritional support from his mother and, with a few exceptions, his bodily functions (e.g. gas exchange, endocrinologic, excretory) are accomplished by the placenta. With birth, the above situation is drastically altered in a very short period of time. There is, in fact, no age during life when so many major adaptations necessary for intact survival occur in such a short time span.

Immediate survival is accomplished by clearance of lung fluid, its replacement with air, and activation of surface active material lining the gas exchange surface of the lung. The result of these processes is an elevation of the oxygen tension in the arterial blood, an increase in pulmonary blood flow, and gradual closure of the fetal shunts (Foramen, Ovale and Ductus Arteriosus).

Alaska Medical Laboratories	Birth limited
Alaska Methodist University	Birth full
Alaska National Bank	Birth limited
Alaska Pacific Assureance	Birth limited
Alaska Painters	15 days
Alaskan Seafoods	Birth limited
Alaska State Housing Auth.	Birth full
Alexander and Alexander	15 days
Anchorage Borough School	Birth full
Army and Air Force Exchange	15 days
A. J. Johnson	Birth limited
Arthur Young and Co.	Birth limited
Automotive Parts and Equipment	Birth limited
B & C Auto Supply	Birth full
Bekins Moving and Storage	Birth limited
Carpenters	14 days (coverage from birth under major medical)
Carr's	Birth full
City of Anchorage	Birth full
Community Hospital	Birth full
Crawford & Co.	Birth limited
Culinary Employees	Birth limited
Fairbanks Municipal Utilities	Birth full
Fairbanks Plumbing and Pipefitting	Birth full
Fairbanks Publishing Co.	Birth full
Federal Employees	Birth full
First National Bank	Birth full
Anchorage Borough	Birth full
Hickel Investment	Birth full
Hotel and Restaurant Employees	Birth full
I. B. M.	Birth full
Ironworkers	Birth full
Kenai Penninsula Borough and Schools	Birth full
Laborers	14 days (from birth under major medical)
Matanuska Maid	Birth full
Meadowmoor Alaska Dairy	Birth limited
Merder, Schaible, Staley, & Delisio	Birth limited
N. B. of A.	Birth full
North Star Borough Schools	Birth full
O'Neill & Sons	Birth full
Operating Engineers	8 days
Petersburg Fisheries	Birth full
Plumbers	Birth full
Providnece Hospital	Birth full
Retail Food Clerks	Birth full
Sheet Metal Workers	Birth full
Teamsters	14 days and free of confinement
University of Alaska	Birth full

HB

177

HB 177

Tape #	Date
8	3/1
8	3/5
9	3/5

Act relating to security deposits and prepaid rent."

2/18/75

COMMITTEE REPORT

JUDICIARY

HOUSE

Mr. Speaker: Date _____

The Committee on COMMERCE has had HB 177

under consideration. A Majority of the members of the Committee

(X) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

AMENDMENT

Audin 4/Pass

OFFERED IN THE HOUSE: BY: Commerce Committee

To: _____ HOUSE BILL No. 177

SENATE BILL No. _____

PAGE: 1 LINE: 10.11.13.16

Line 10

After the word "an" insert the word "aggregate".

Line 11

After the word "landlord" delete the word "may" and insert the word "shall".

Line 13

After the words "inventory of" delete the word "existing" and insert the words "the condition of existing facilities and furnishings and any".

Line 16

Section 2. AS 34.03.070(d) is amended to read:

(d) If the landlord fails to comply with (a) of this section, the tenant may recover twice the amount of the security deposit or prepaid rent paid, or $100, whichever is more. If the landlord willfully fails to comply with (b) of this section, the tenant may recover an amount not to exceed twice the actual amount withheld.

XXX 6425

March 3, 1975

Representative Bob Bradley, Chairman
House Commerce Committee
Alaska State Legislature
Juneau, Alaska 99801

Subject: HB 177 - Security Deposits

Dear Representative Bradley:

As we discussed on Saturday, March 1, 1975, here are amendments to HB 177 as proposed by Commissioner-designate Notley and myself.

1. On line 10, after "an" insert "aggregate".

   This is to clarify that prepaid rent and security deposit, added together, cannot exceed twice the monthly rent.

2. On line 11, change "may" to "shall".

   This is to make certain the new language is mandatory. If any deposit or prepaid rent is to be charged by the landlord, the written inventory must be made and signed by both parties.

3. On line 13, after "inventory of" strike "existing" and insert "the condition of existing facilities and furnishings and any".

   This is to clarify the bill's intent to require that landlord and tenant agree as to the condition of the premises when the tenant moves in.

4. Oneline 16, add a new section, as follows:

*Sec. 2. AS 34.03.070(d) is amended to read:

(d) If the landlord fails to comply with (a) of this section, the tenant may recover twice the amount of the security deposit or prepaid rent paid or $100, whichever is more. If the landlord willfully fails to comply with (b) of this section, the tenant may recover an amount not to exceed twice the actual amount withheld.

This is to provide a measure of damages for violation of (a) of this section. At present there is no penalty for violating this subsection.

Thank you for your consideration.

Sincerely,

DEC:mjb

cc: Representative McKinnon
Commissioner Motley

Donald E. Clocksin
Deputy Director

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
315 FIFTH STREET, SUITE 8
JUNEAU, ALASKA 99801
TELEPHONE 586-6425

March 3, 1975

Representative Bob Bradley, Chairman
House Commerce Committee
Alaska State Legislature
Juneau, Alaska 99801

Subject: HB 177 - Security Deposits

Dear Representative Bradley:

As we discussed on Saturday, March 1, 1975, here are amendments to HB 177 as proposed by Commissioner-designate Motley and myself.

1. On line 10, after "an" insert "aggregate".

   This is to clarify that prepaid rent and security deposit, added together, cannot exceed twice the monthly rent.

2. On line 11, change "may" to "shall".

   This is to make certain the new language is mandatory. If any deposit or prepaid rent is to be charged by the landlord, the written inventory must be made and signed by both parties.

3. On line 13, after "inventory of" strike "existing" and insert "the condition of existing facilities and furnishings and any".

   This is to clarify the bill's intent to require that landlord and tenant agree as to the condition of the premises when the tenant moves in.

4. On line 16, add a new section, as follows:

*Sec. 2. AS 34.03.070(d) is amended to read:

(d) If the landlord fails to comply with (a) of this section, the tenant may recover twice the amount of the security deposit or prepaid rent paid or $100, whichever is more. If the landlord willfully fails to comply with (b) of this section, the tenant may recover an amount not to exceed twice the actual amount withheld.

This is to provide a measure of damages for violation of (a) of this section. At present there is no penalty for violating this subsection.

Thank you for your consideration.

Sincerely,

Donald E Clocksin

Donald E. Clocksin
Deputy Director

DEC:mjb

cc: Representative McKinnon
Commissioner Motley

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
315 FIFTH STREET, SUITE 8
JUNEAU, ALASKA 99801
TELEPHONE 586~~XXXX~~ 6425

MEMORANDUM

To: Sen. Kerttula and Rep. Bradley, Chairmen, Commerce Committees

From: Don Clocksin

Subject: Confirmation hearings - Commissioner-designate of Commerce

Date: Feb. 16, 1975

Since the Commissioner-designate of Commerce will be in front of your committees for confirmation, you may wish to ask questions relating to the Commerce Department's responsibility in the area of rent control.

In 1974 the Eighth Legislature adopted the Emergency Residential Housing Rent Regulation and Control Act (AS 34.06; Chapter 128, SLA 1974; CSSB 520 am). The Act declared that a public emergency may exist when rental housing becomes so tight that rent gouging occurs, and it required that the Commissioner of Commerce adopt regulations under which the Governor could declare a housing emergency and impose rent controls. Unless extended, the Act expires July 1, 1975.

To this date no regulations have been adopted or even proposed. The old Commissioner conducted "informational" hearings in Fairbanks and Valdez, but he made no other attempt to comply with the legislative mandate. Meanwhile, there are several communities that presently have a housing emergency as defined in the Act that should have rent control as the Legislature intended.

I would hope that two lines of inquiry be presented to the Commissioner-designate. First, does he intend to adopt regulations to protect communities that are being victimized by artificially inflated rents; that is, what does he think about rent control as a temporary emergency solution for Alaska's overcrowding? Second, does he intend to comply with legislative mandates or does he, like his predecessor, intend to ignore those legislatively imposed duties which he doesn't care for?

I also hope your committees will look into the necessity for extending and revising the Emergency Residential Housing Regulation and Control Act. I have attached a copy.

Kent Dawson

LAWS OF ALASKA

1974

Source: CSSB 520 am

Chapter No. 128

AN ACT

Relating to the establishment of rent regulation and control in emergency situations; and providing for an effective date.

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

* Section 1. AS 34 is amended by adding a new chapter to read:

CHAPTER 06. EMERGENCY RESIDENTIAL RENT REGULATION AND CONTROL.

Sec. 34.06.010. LEGISLATIVE FINDINGS, PURPOSE. The legislature finds and declares that

(1) a serious public emergency may exist in housing in Alaska when, because of sudden economic development and uneven population growth, there develops an acute shortage of dwellings in all or parts of Alaska;

(2) abnormal economic conditions affecting the availability of residential rental housing may produce serious threats to the public health, safety and general welfare and, to prevent these perils, standby preventative regulations that may be invoked in the event of an emergency should be promulgated.

Sec. 34.06.020. DECLARATION OF HOUSING EMERGENCY. (a) In accordance with regulations promulgated under sec. 30 of this chapter, when the governor finds that emergency conditions exist with regard to residential rental housing, after public hearings in the area, or areas, affected, he may by written proclamation declare that a state of housing emergency exists. A housing emergency exists when the rate of vacancies in residential rental housing is so low that there is a substantial impairment of free choice in residential rental housing or when the average vacancies in residential

housing rentals falls below three per cent in the area, or areas, affected and remains below three per cent for a period of at least 90 days. The proclamation shall state the nature of the housing emergency, designate the area, or areas, affected and be published generally through the state in the manner provided by law. When the state of emergency no longer exists, the governor shall issue a written proclamation stating this fact and publish it generally throughout the state in the manner provided by law.

(b) On issuing a proclamation of a housing emergency, the governor may invoke the provisions of this chapter to regulate and control residential rents and evictions in some parts or all of the state.

Sec. 34.06.030. SCOPE OF EMERGENCY HOUSING REGULATIONS. Subject to the Administrative Procedure Act (AS 44.62), the commissioner of commerce, who is charged with the administration of this chapter, shall promulgate regulations concerning the control of residential rents, including but not limited to provision for the establishment and adjustment of maximum rents, the classification of residential housing accommodations and the regulation of evictions.

Sec. 34.06.040. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT. (a) Administrative and adjudicatory proceedings conducted under this chapter shall be conducted under the Administrative Procedure Act (AS 44.62).

(b) A final determination or order issued, or a regulation promulgated, under this chapter is subject to judicial review under the Administrative Procedure Act (AS 44.62).

Sec. 34.06.050. DEFINITIONS. In this chapter

(1) "commissioner" means the commissioner of commerce;

(2) "department" means the Department of Commerce;

(3) "residential housing accommodation" means a single or multiple unit private dwelling, including mobile homes, or a structure on the land that may be leased for any term of one week or longer, or other condition of tenancy, that is used for dwelling purposes.

Sec. 34.06.060. SHORT TITLE. This chapter may be cited as the Emergency Residential Housing Rent Regulation and Control Act.

* Sec. 2. AS 44.62.330 is amended by adding a new paragraph to read:

(37) Department of Commerce, under the Emergency Residential Rent Regulation and Control Act (AS 34.06).

* Sec. 3. This Act expires July 1, 1975.

* Sec. 4. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.

Approved by governor: May 18, 1974
Actual effective date: May 19, 1974

LAW OFFICES OF

ALASKA LEGAL SERVICES CORPORATION

315 FIFTH STREET, SUITE 8

JUNEAU, ALASKA 99801

TELEPHONE 586-6425

March 21, 1975

MEMORANDUM

TO : Rep. Joe McKinnon

FROM : Don Clocksin

SUBJECT: Floor Debate - CSHB 177, Rent Deposits

- -

Since this bill may soon appear on the House floor, you may want to use this memo.

I. Background.

The Landlord-Tenant Act of 1973 was passed one year ago. Since it was adopted, several problems have arisen. According to news stories, the greatest single landlord-tenant complaint heard in the Consumer Protection Division of the Attorney-General's Office was about security deposits. Disputes over the amount of damage caused by a tenant and the remedies available have been common. Confusion has arisen about how to calculate the maximum charges that can be imposed by a landlord when a tenant moves in.

II. Present Law.

Under present law, a landlord can charge a deposit or prepaid rent in an amount not to exceed two months' rent. That means if the monthly rent is $200, the maximum that can be charged is $600:

$ 200	- first months' rent
200	- last months' rent
200	- security deposit
$ 600	

II. What the Bill Would Do.

1. The bill would add "aggregate" to clarify that deposit and prepaid rent, added together, cannot exceed two times the rent.

2. The bill would require that the landlord and tenant take an inventory of existing conditions so that there will be fewer misunderstandings as to the condition of the premises when the tenant moves in. Many landlords do this now, according to testimony from Ben Marsh of the Anchorage Landlord and Property Managers Association. This will reduce the misunderstandings between landlord and tenant and eliminate needless litigation and hard feelings.

3. The bill would clarify the enforcement section. Through inadvertence or whatever, when the Act was passed last year there was no enforcement provision provided for a violation of sub (a). This bill would provide that if a landlord charges more than allowed, the tenant can recover twice the amount of the excess. (e.g. if landlord in example above charges $700, tenant can recover $200.) That is similar to remedy adopted last year for a violation of sub (b).

DEC:btg
cc: Rep. Bradley

XXX 6425

March 3, 1975

Representative Bob Bradley, Chairman
House Commerce Committee
Alaska State Legislature
Juneau, Alaska 99801

Subject: HB 177 - Security Deposits

Dear Representative Bradley:

As we discussed on Saturday, March 1, 1975, here are amendments to HB 177 as proposed by Commissioner-designate Notley and myself.

1. On line 10, after "an" insert "aggregate".

   This is to clarify that prepaid rent and security deposit, added together, cannot exceed twice the monthly rent.

2. On line 11, change "may" to "shall".

   This is to make certain the new language is mandatory. If any deposit or prepaid rent is to be charged by the landlord, the written inventory must be made and signed by both parties.

3. On line 13, after "inventory of" strike "existing" and insert "the condition of existing facilities and furnishings and any".

   This is to clarify the bill's intent to require that landlord and tenant agree as to the condition of the premises when the tenant moves in.

4. Oneline 16, add a new section, as follows:

*Sec. 2. AS 34.03.070(d) is amended to read:

(d) If the landlord fails to comply with (a) of this section, the tenant may recover twice the amount of the security deposit or prepaid rent paid or $100, whichever is more. If the landlord willfully fails to comply with (b) of this section, the tenant may recover an amount not to exceed twice the actual amount withheld.

This is to provide a measure of damages for violation of (a) of this section. At present there is no penalty for violating this subsection.

Thank you for your consideration.

Sincerely,

DEC:mjb

cc: Representative McKinnon
Commissioner Motley

Donald E. Clocksin
Deputy Director

HB

1911/192

HB 191, 192

Tape no.	Date
12	3/12

"An Act relating to changes in transportation tariffs."

COMMITTEE REPORT

2/21/75 HOUSE JUDICIARY

Mr. Speaker: Date 11 Feb 75

The Committee on Commerce has had HB 191 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

"An Act reàating to changes in public utility tariffs."

COMMITTEE REPORT

2/21/75 HOUSE JUDICIARY

Mr. Speaker: Date _____

The Committee on Commerce has had HB 192 under consideration. A Majority of the members of the Committee

(X) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

March 4, 1975

Alaska Transportation Commission
MacKay Building
Anchorage, Alaska

Dear Commissioners,

The House Commerce Committee will be holding hearings on House Bill 191, transportation tariff change, on Wednesday March 12 at 8 a.m. Please contact us if you need more information.

Sincerely,

Bob Bradley

BB/mr

March 4, 1975

Alaska Public Utilities Commission
MacKay Building
Anchorage, Alaska 99501

Dear Commissioners,

The House Commerce Committee will be holding hearings on the following bills, HB 192 and HB 243 on public utility rates and tariffs will be heard on Wednesday, March 12, and HB 19 on telephone utilities will be held on Thursday March 13. Testimoney will be heard at these times. Hearings are in Room 203 of the Assembly Building at 8 a.m.

Sincerely,

Bob Bradley

BB/mr

POSITION PAPER

REGARDING HB 191

(AN ACT RELATING TO CHANGES IN TRANSPORTATION TARIFFS)

SUBMITTED BY

ALASKA CARRIERS ASSOCIATION, INC.
3443 Minnesota Drive
Anchorage, Alaska 99503

William L. Fritsch
General Manager

Prepared March 11, 1975

COMES NOW, Alaska Carriers Association, Inc. by William L. Fritsch, its General Manager, for and on behalf of the regulated for-hire common motor carriers under the jurisdiction of the Alaska Transportation Commission pursuant to Title 42, Alaska Statutes and does hereby submit its opposition to the changes proposed in AS 42.10.290(a) and AS 42.15.191(a) in the subject HB 191 for reasons hereinafter set forth.

Presently the affected provisions of Title 42 prescribe a 30 day notice to the Commission and to the public of changes in motor freight tariffs. The proposal to extend this 30 day notice period to 45 days is unnecessary and burdensome in that it duplicates and further extends an already rigorous and exhaustive procedure of public notice of proposed tariff changes.

Generally, it takes 10-12 weeks to effect a change in the agency motor freight tariffs issued by Alaska Carriers Association, Inc. from the time of inception. The procedure followed in implementing changes in our agency tariffs are outlined in this Association's Agreement with the Interstate Commerce Commission under Section 5(a) of the Interstate Commerce Act which includes this Association's Articles of Incorporation and By-Laws. A copy of this agreement is attached hereto and by reference made a part hereof. Briefly, the procedure followed to implement changes in our motor freight tariffs is as follows:

1. Shippers as well as carriers may initiate changes in our motor freight tariffs. Proposals for tariff changes must be submitted in writing.

2. Upon receipt of written proposals for tariff changes, this Association publishes a monthly "Rate Docket" which is available to the general public on an annual subscription basis.

3. The monthly Rate Docket publication outlines the proposals received since the preceding monthly docket and announces a meeting of the Association's Standing Rate Committee. Notice of the meeting is given on at least ten days' notice excluding the day of mailing of the docket, Saturdays, Sundays and holidays.

4. At its scheduled meeting the Standing Rate Committee receives testimony, evidence and arguments for and/or against proposals from proponents and opponents including shippers as well as competing carriers.

5. The Standing Rate Committee approves or disapproves the proposal(s) or may modify the proposal to insure its reasonableness.

6. Following the meeting of the Standing Rate Committee, the minutes of the meeting are published in the form of a "Disposition of the Rate Docket" and are mailed to docket subscribers allowing ten working days for:

   1)-competing carriers to concur or withdraw from participation in the approved publication; and

   2)-any interested parties to appeal the Standing Rate Committee's decision to our higher General Rate Committee.

7. Should a decision of the Standing Rate Committee be appealed to the General Rate Committee, notice of a General Rate Committee meeting is published and distributed to docket subscribers announcing the meeting of the General Rate Committee on not less than ten working days' notice.

8. At its meeting, the General Rate Committee also allows the submission of testimony, evidence and arguments for or against proposals referred or appealed to it. The General Rate Committee then renders its decision approving or disapproving the proposal or modifying the proposal to insure its reasonableness.

9. Following the meeting of the General Rate Committee the minutes of its meeting are published in the form of a "Disposition Notice" again allowing at least ten working days for competing carriers to submit their concurrence or withdrawal from participation in the publication as approved for publication by the General Rate Committee.

10. Following the ten working day waiting period, actual tariff publication is made and transmitted to the Interstate Commerce Commission and/or Alaska Transportation Commission for filing on 30 days statutory notice to the Commission and to the public. Allowing for publication and mailing time this 30 day notice will normally consume 35-40 days as the formal publication must be physically received by the Commissions 30 full days prior to their scheduled effective date.

11. During the 30 day statutory notice period copies of the tariff publication are mailed to tariff subscribers and the official file copies are open for public inspection at the respective Commission offices. Interested parties may petition the Commissions for suspension and investigation of tariff changes thought to be unreasonable.

In addition to the extensive procedure outlined herein above the following points should also be observed:

1. Alaska Carriers Association, Inc., as tariff publishing agent for the motor freight carriers of Alaska, does in fact receive numerous proposals from shippers and shippers do in fact actively participate in our docketing procedure. While it is true that small or occasional shippers may lack the time and expertise to participate in these tariff publication procedures they have the benefit of larger shipper participation and resulting protection.

2. For the same reasons that small or occasional shippers may not participate in the above reference procedures they lack the ability to employ counsel to actively participate in a formal suspension and investigation proceeding before the Alaska Transportation Commission and/or the Interstate Commerce Commission.

3. The Alaska Transportation Commission already has the authority to give public notice of proposed tariff changes and has done so from time to time. Additional delay in affecting tariff changes would unnecessarily delay rate <u>reductions</u> as well as needed increases.

4. Yet another restriction is now being placed on tariff publishing agents by the Interstate Commerce Commission requiring that tariff revisions and supplements be mailed to all tariff subscribers simultaneous with their formal filing with the regulatory agency.

5. Under the procedures outlined above, all competing carriers enjoy the free and unrestrained right to independent action regarding all tariff matters.

6. Alaska Carriers Association, Inc. supports the budgetary request of Alaska Transportation Commission to include a rate analyst on the Commission staff. A rate analyst on the Commission's staff would be extremely helpful to insure reasonable and equitable transportation rates and charges.

THEREFORE, for reasons outlined above, Alaska Carriers Association, Inc. respectfully submits that existing tariff publication procedures provide more than ample opportunity for interested shippers, shipper organizations, and the general public to be made aware of proposed tariff changes, including reductions as well as increases, and therefore the amendments to AS 42 proposed in the subject HB 191 are unnecessary and burdensome for both carrier and shipper alike.

Respectfully submitted,

ALASKA CARRIERS ASSOCIATION, INC.

By William L. Fritsch
William L. Fritsch, General Manager

cc: Alaska Transportation Commission
Alaska Bar Association
ACA Board of Directors

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
315 FIFTH STREET, SUITE 8
JUNEAU, ALASKA 99801
TELEPHONE 586-XXX 6425

MEMORANDUM

To: Rep. Terry Gardiner

From: Don Clocksin

Subject: Floor Debate - HB 192, Public Utility Notices

Date: March 20, 1975

Since your bill, HB 192, is in Rules, you may want to refer to this summary when it appears on the House calendar,

I. Background.

This bill originated from the Bush Justice Conference in June, 1974, in Minto, Alaska. There, Alaskans living in rural areas gathered to discuss the delivery of state services to the bush and to recommend changes. One problem identified was the lack of notice and input rural residents had on decisions made by administrative agencies that affected their lives. The Administrative Law Committee of the Alaska Bar Association, made up of lawyers representing utilities and consumers developed the legislation.

II. Present Law.

Under present procedures of the Alaska Public Utility Commission, if a utility requests a rate change or other revision of its tariff from the APUC, the Commission files it, notifies the public, and, if no objections are received within 30 days, the change goes into effect automatically. The present law requires 30 days' notice to the public from the date the proposed revision is filed. Since delays occur between filing with the APUC and actual publication, substantially less than 30 days' actual notice is available to comment. Testimony indicated in 1973 that only 17.3 days actual notice to the public was given, on the average.

III. What the Bill Will Do.

The bill would require at least 30 days' actual notice to the public, and gives the APUC 15 days from the date the proposed change is filed with them to issue the public notice.

The net result is to increase by 15 days the period of time before

a revision can take effect and to assure more time for public comment. The bill will not alter the right of the APUC to adopt changes quicker than that in emergencies.

IV. Support.

The bill is supported by the Bush Justice Monitoring Committee, Alaska Legal Services Corporation, the Alaska Bar Association, and is approved by Commissioner Zerbetz of the APUC. There is no known opposition.

cc: Rep. Bob Bradley

TERRY GARDINER
STATE REPRESENTATIVE
POUCH V
JUNEAU
99811

BOX 1092
KETCHIKAN
99901

Alaska State Legislature

March 3, 1975

File HB 191 & 192

TO: Bob Bradley

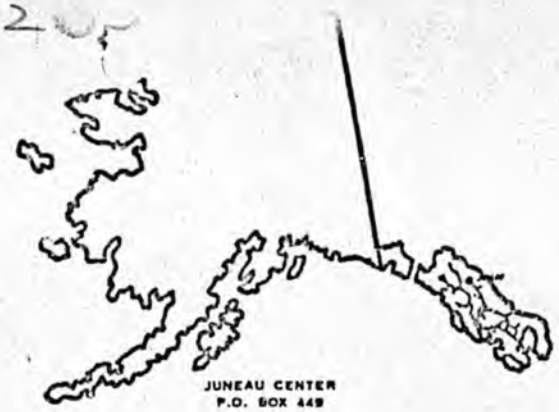
FROM: Terry Gardiner T.G.

SUBJECT: HB 191 and 192

HB 191 and 192 have been referred to your committee, and then they go to Judiciary. I introduced these bills at the request of the State Bar Association and Alaska Legal Services. Enclosed is a whole pile of back up material including a letter that you once wrote supporting such legislation when you were Director of SEACAP. I have talked to Gordon Zerbetz, the Commissioner of APUC, which would be affected by this legislation and he thinks that it is a great idea. I don't think that there will be any opposition to these bills, so speed them on their way if you can.

191+192

SOUTHEASTERN ALASKA COMMUNITY ACTION PROGRAM



JUNEAU CENTER
P.O. BOX 449
JUNEAU, ALASKA 99801
PHONE: 907 586-1990

May 22, 1973

Mr. Gordon J. Zerbetz, Commissioner
Alaska Public Utilities Commission
110 MacKay Building
Anchorage, Alaska 99501

RECEIVED APUC

Dear Mr. Zerbetz:

24 MAY 73 14: 07

The Southeastern Alaska Community Action Program works with the villages in Southeastern Alaska. Through this close working relationship we are able to better understand the needs of these rural people than are many agencies. The Public Utilities Commission decisions are such that they have widespread effect on the people and villages of Southeastern. For this reason SEACAP has taken interest in the upcoming PUC public hearing. SEACAP is concerned about the type of notices the utility companies now utilized to inform their subscribers of rate changes. The predominate method is to publish written notices in the legal column of the newspaper that services the affected area. This method has several obvious shortcomings for the village people. Many people living in the village do not receive newspapers. Many older people are not able to read or read with great difficulty. Few people take the time to read the legal columns even if they are receiving a newspaper. As not to critize without suggestions for improvement SEACAP does have several recommendations. The notice of rate changes should be continued in the newspapers. In addition, notices should be posted in public buildings (i.e. post office, city hall) and on community bulletin boards. Individual notices should also be sent to subscribers with their regular utility bill, at least 30 days before the rate change is to become effective. Announcements on the radio should also be used to spread this type of information. To insure all the people understand, the announcement should be read in English and the dialect native to the affected area. The adoption of these recommendations would bring better service to the public.

Very truly yours,

R. Bradley

Robert E. Bradley
Executive Director/SEACAP

Telephone (907) 452-1746

Doyon, Limited

527 Third Avenue

Fairbanks, Alaska 99701

May 29, 1973

Mr. Jack Stearn
Executive Director
Alaska Public Utilities Commission
1100 MacKay Building
338 Denali Street
Anchorage, Alaska 99501

Dear Mr. Stearn,

It has been brought to our attention that you are soliciting comments on Title 3 to implement AS 42.05 as it relates to notice that utility companies must provide to their customers whenever these companies set or change their rates.

RECEIVED APUC
31 MAY 73 11:

Doyon, Limited is a native Regional Corporation with a very deep interest in utilities within the 42 villages in our region. We have been aware for some time that the notice for public hearings on rate changes and service has been totally inadequate.

I would like to thank the Commission for sincerely looking into this problem and doing something about it.

We believe that future public notice should be given by radio as well as newspapers. Newspaper notice is generally in the legal section and receives very little scrutiny. Radio notices would be just an additional way to make sure that as many people as possible know about the hearings. Additionally we feel that native languages should be used where the language is used more then English.

One final method of notification we believe should be used is to require the utility to give written notice to individual customers along with utility bills.

Please enter this letter into the official transcript of hearing.

Thank you

Sam Kito, Jr.
Executive Vice President

HB

208

3/25/75

ALASKA
STATE LEGISLATURE

MEMORANDUM

Bob

- Hope you can get HB208 (Corporate Income Tax reform) out
- I think it's a badly needed bill.

Hugh

"An Act relating to the Alaska net income tax deductions and credits and providing for an effective date."

COMMITTEE REPORT

2/26/75 HOUSE FINANCE

Mr. Speaker: Date _____

The Committee on Commerce has had HB 208 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

(✓) recommends it BE REPLACED WITH CS FOR HB 208 (same title) AND THAT CS FOR HB 208 DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

[illegible]	[illegible]	_____
[illegible]	_____	_____
[illegible]	_____	_____
[illegible]	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

H. S. Sadler Chairman

HOUSE BILL 208
POTENTIAL REVENUE EFFECTS
($000 Omitted)

Provision	FY 76	FY 77	FY 78	FY 79	FY 80
Elimination of Foreign Tax Credit	917	1,001	1,433	1,825	1,889
Limitation on Investment Credit	2,403	2,187	6,552	4,286	4,408
Elimination of Percentage Depletion	3,000	3,437	15,038	17,072	18,352
Total Potential Revenue Effect	6,320	6,625	23,023	23,183	24,649

Note: Effect of Domestic International Sales Corporations not included since data are not available as to the number or extent of activity of potential DISC's. Theoretically, all exports from the State could qualify for this tax shelter.

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER / POUCH S — JUNEAU 99801

March 17, 1975

The Honorable Bob Bradley, Chairman
House Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Bradley:

re House Bill No. 208

House Bill No. 208, an Act relating to the Alaska net income tax deductions and credits, was introduced on February 26, 1975 and was referred to the House Commerce and Finance Committees.

For the consideration of the Commerce Committee, I am enclosing a copy of a memorandum dated March 10, 1975 from Frederick P. Boetsch, Deputy Commissioner of the Department of Revenue, concerning tax loopholes or potential tax loopholes that are presently on our statutes that would be eliminated by the proposed legislation.

If you, or any members of your Committee, have any questions on the material submitted, kindly advise the writer by telephone at 465-2397 and I will contact Mr. Boetsch for further material or testimony.

Very truly yours,

R. D. Stevenson
Special Assistant

RDS:rl

cc The Honorable Hugh Malone
Chairman
House Finance Committee

Frederick P. Boetsch
Deputy Commissioner
Department of Revenue

STATE
of ALASKA

MEMORANDUM

TO:

R. D. Stevenson
Special Assistant
Department of Revenue

DATE : March 10, 1975

FROM:

Frederick P. Boetsch
Deputy Commissioner for Taxation
Department of Revenue

SUBJECT:

HB 208

I have reviewed HB 208 which eliminates Foreign Tax credits from reference in the Alaska Net Income Tax Act, limits the application of Investment Credit to $100,000 of equipment purchased and placed in use each year, deletes the tax shelter provided for Domestic International Sales Corporations, and eliminates percentage depletion as a deduction for income tax purposes.

The Foreign Tax Credit is allowed by the Federal Government to offset duplicate taxation on the same income. This is due to the fact that the Federal Government taxes world-wide income of domestic corporations. However, when applied to the state income tax return, the credit amounts to a double reduction of state taxes. Any corporation which reports to us on a world-wide basis apportions its income to Alaska using the three factor formula (Sales, Property, and Payroll). This means that Alaska gets a share of the income related to the corporation's activities in the state. Alaska is not taxing the income earned in a foreign country - only the income earned in Alaska. Therefore, the credit is not appropriate since it bears no relation to the income taxed by Alaska. We have issued an administrative ruling to this effect but believe that a clear expression of this policy in the statutes is necessary to avoid confusion and possible litigation.

The investment credit is a tool used by the Federal Government to stimulate the purchase of equipment during a period of economic slack. It is doubtful that such stimulation is needed in our state which is currently experiencing a boom. It is apparent that the state will lose a large number of tax dollars if the credit is continued for state tax purposes.

The attached schedule indicates that we could lose almost $20 million between now and 1980. Almost 3/4 of these benefits would go to large international firms doing business in our own state. Although this would be a loss to the Treasury and, therefore, to Alaskans, it would not increase investment by these corporations in our state. In short, we would be giving away $15 million dollars. On the other hand, the bill provides that the small businessman would continue to receive the benefits of the credit.

Our projections are based on a normal growth rate consistent with our most recent projections of corporate tax collections exclusive of the pipeline and other effects; the investment credit directly related to equipment used in the construction of the pipeline and the line and related facilities themselves; and Alaska's share of other oil companies on a world-wide basis, but of which Alaska would receive an apportionable share. The normal investment credit rate of 16.8263% was derived from

statistics provide i by the Internal Revenue Service and represents an average investment credit in relation to the net taxes paid.

The next provision seeks to disallow the filing of a return as a Domestic International Sales Corporation under Internal Revenue Code Section 991 for the purposes of meeting the Alaska Net Income Tax Act requirement. This is a provision that was enacted by Congress in 1971 to stimulate exports. Basically, it allows companies who have export sales to form a subsidiary corporation for the purpose of handling the exports. This subsidiary corporation is not subject to direct corporate taxation. Instead, 50% of the profits are taxed directly to the parent corporation and the other 50% are deferred until such time as actually distributed to the parent corporation or until such time as the parent disposes of its stock in the DISC or the election to be treated as a DISC is revoked. The idea that Congress had in mind was that this would allow us to export goods on a more competitive basis and help the national balance of payments situation.

We do not think that such an incentive is either necessary nor desirable in Alaska. There is a great deal of interest in exporting all our natural resources to foreign countries at the present time and a tax break does not seem to be necessary in order to continue or spur on the export industries. It could mean, however, that Alaska resources could be exported through the vehicle of a DISC without any income tax being paid on such exports. The DISC itself as indicated would be non-taxable. Although the parent corporation would be deemed to have received a dividend equal to 50% of the income during the tax year it is possible that the parent might be a corporation not doing business in Alaska and therefore could not be taxed on the deemed distribution. Although it is possible we could assert jurisdiction on the basis of the combination provisions of the Multistate Tax Compact we could wind up in court on the issue. Since this provision in the Internal Revenue Code does not have any advantage for Alaska and does not seem to be in the best public interst of Alaskans, we think that the easiest, simpilest and most straight forward way to solve this problem would be to eliminate the possibility by deleting that Internal Revenue Code provision from our statutes.

I am unable to predict the effects on Treasury since we do not have any historical background on these corporations.

The percentage depletion allowed by the Internal Revenue Code is also eliminated While there is great controversy raging in Congress on whether this allowance should continue for oil and gas (a bill to eliminate it recently passed the House), there really is no such question in Alaska. Industry is eager to develop our resources and continue exploration here. What we are doing, in effect, by continuing to allow percentage depletion on Alaska Income Tax returns is helping to subsidize exploration in other parts of the world. The revenue losses are substantial as is indicated by the attached schedule.

This Bill, then would eliminate many of the tax loopholes or potential loopholes which are presently on our statutes. These loopholes represent poor tax policy from Alaska's viewpoint and cause a considerable drain on the State Treasury. This drain will grow much larger unless we plug it now.

FPB:sp
Attachment

HOUSE BILL 208
POTENTIAL REVENUE EFFECTS
($000 Omitted)

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02/2018

STATE
of ALASKA

MEMORANDUM

File

TO: R. D. Stevenson
Special Assistant
Department of Revenue

DATE : March 10, 1975

FROM: Frederick P. Boetsch
Deputy Commissioner for Taxation
Department of Revenue

SUBJECT: HB 208

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Producers of DISSOLVING PULP

KETCHIKAN PULP COMPANY

P.O. BOX 1619 KETCHIKAN, ALASKA 99901 U.S.A.

March 22, 1975

EDWARD W. BORGEN, Sr.
Legislative Representative

The Honorable Pat Dwyer
Chairman, House Commerce Committee
Alaska State House of Representatives
Capitol Building
Juneau, Alaska 99811

Dear Representative Dwyer:

The above problem appears to be of some concern to the communities of both Federal and State governments. It is felt that maximum consideration should be given to maintain the use of those facilities in the Alaska Pulp Industry that are presently in operation. It is felt that the Federal Government is trying to assist this industry by the modification of the use of the committed areas. It is felt by the Ketchikan Industrial Corporation, and Alaska Development Council that

[illegible] effective January, 1976, [illegible] will be [illegible] by increasing the [illegible] of the [illegible]. It is felt that [illegible] should be allowed by civil [illegible] to the forest service, [illegible] have been [illegible], and the [illegible] [illegible] [illegible] of the [illegible] [illegible] [illegible]

Twenty years ago, the first pulp mill was established in Alaska. Ketchikan was chosen for the site, and the attendant construction of the mill, and the start of logging brought new work opportunities to an area where the fisheries, and other employment, were on the decline. As an adjunct to pulp manufacturing, additional sawmill capacity was later added by mill expansion, construction of new plants, and by adding second and even third shifts as export markets were developed. Much of the money invested in this sawmill expansion was brought about by the Domestic International Sales Corporations, and by the Investment Tax Credit, which provided one means of aid to recover the rather substantial investments ($2,000,000) required in the expansion program.

As you have no doubt read in the press, the Ketchikan Pulp Company is now engaged in a struggle for its life. The Environmental Protection Act regulations, laid down by the Federal government, and estimated to be thirty-four million dollars, appear too costly to ever be paid off. It is hoped some way can be found to induce Congress to recognize that the strict EPA law need not apply, in equal degree, to all receiving waters found throughout the United States and here in Alaska. This, however, may take some time to accomplish, if, indeed, it can be done at all.

The export of pulp to foreign markets from the Ketchikan pulp mill constitutes a major portion of the DISC tax credits for the company. It is the sawmills who benefit most from the operations, thus it is hoped that they can be continued, and some means can be found to continue operation of the sawmills, even if the pulp mill has to cease production. With a highly competitive market for lumber products, the sawmills need all the help they can get. The Domestic International Sales Corporations are a means to assist the sawmills in meeting the fierce competition of the world markets, and therefore we feel should be retained, at least until the economic situation in Southeastern Alaska shows some signs of improvement, and those sawmills can get back into full production again. Currently, DISC is actually needed more than ever in our area to keep an industry going that is providing some employment and some tax revenues, where further financial burdens could result in both the employment and the tax revenues diminishing appreciably at a time when these revenues are of considerable importance to the State of Alaska.

For the long term pull, we feel that DISC should be thoroughly examined before repeal would take place. It does not mean that no taxes will accrue to the State. It is a means, on the other hand, to continue some tax revenue, both through the corporate and the personal income taxes paid, the latter through the employment in the sawmills, the logging industry and in longshoring. With oil revenues being somewhere in the future, it would appear that the State should do all possible to see that the present tax sources continue to be available.

On their investment credit matter, we again urge consideration of the impact of repeal. Ketchikan Pulp Company is faced with a considerable expenditure for anti-pollution equipment if it can continue operation. This exemption provides a means to recover a small part of those costs, as none of the money expended will in any way result in increasing the output of a lower cost product, generally one source of recovering installation costs. On the contrary, the cost of the equipment to meet EPA regulations will have to either be passed on to the consumer, an impossibility in the present market, or somehow absorbed. Here both DISC and the Investment Credit can play an important part in the company's future.

For your further information and consideration, we are attaching a sheet showing the suspension of employment at the mill of sawmill production in early 1974, this before the market for lumber products almost collapsed. The present employment figures, which we hope can be maintained until the market improves, will give some idea of the impact we are attempting to indicate.

People from the staff of the company, who are familiar with the more technical aspects of this subject will be on hand to answer questions or attempt to clarify points that may not be clear.

Thank you very much for the time you have spent in consideration of our problem.

Respectfully,

Edward L. Morgan, Sr.
Legislative Advisor

cc Thomas Flanagan, Pres.
Martin Pihl, V. P.
Ketchikan Pulp Company

Committee Members,
House Commerce

EMPLOYMENT AND INVESTMENT DATA - DISC AND INVESTMENT TAX CREDIT

Sawmills	1974 Peak	Number of shifts	1975 workers	Number of shifts	Capital in expansion
Ketchikan Spruce Mills-Ketchikan	140	2	80	1	$300,000 Modernization
Annette Hemlock Metlakatla	120	2	120	2	$250,000 Expansion
Alaska Timber Co. Klawock	100	2	0	0	$2,500,000 New sawmill
Cant Mill-Herd Cove (Ketchikan)	80	2	50	2	$5,000,000 New sawmill
Sawmill totals	440	8	250	5	$8,000,000
Longshore Employment					
(1) Ketchikan	50		40		
Metlakatla	50		40		
(2) Klawock	40		0		
Longshore total	140		80		
Logging for supply mills					
Various camps	440		250		
Total wages in mill & related	1010		580		Reduction of 430 jobs due to depressed markets

(1) Some Ketchikan longshoremen have been able to find work in Seward on a temporary basis. These men rotate each month in this work opportunity.

(2) The 13-week longshore crew is made up of men from Klawock, Craig and Hydaburg.

union 76

March 14, 1975

To: Edmund W. Bluth

From: Thomas E. Edwards

Arguments Against HB 208

I suggest the following letter be referred to the appropriate Alaska Committee hearing on HB 208:

Gentlemen:

Union Oil Company is opposed to the modifications of the federal tax structure for purposes of Alaska net income taxation as proposed by House Bill 208.

In adopting the federal tax structure as a base for Alaska net income taxation, Alaska has codified a well integrated system designed not only for the collection of revenue but also a system designed to provide incentives for capital formation which encourages continued economic development. A further objective of the federal tax system is to correct competitive imbalances created by differences in international taxation. HB 208 would eliminate the major substantive provisions in these areas. Below is a discussion of the various credits and deductions HB 208 seeks to eliminate and a discussion of the probable economic ramifications of such action.

Job Development Investment Credit

HB 208 reduces to the point of extinction the job development investment credit allowed under IRC 50. The job development credit encourages a type of capital formation which relates directly to economic progress, to cost reduction, to the utilization of new methods, to the creation of employment, and to the advancement of product quality.

At a time when the Nation is suffering from what economic commentators have characterized as the worst recession since the Great Depression, this provision of HB 208 would be a step backwards. Indeed, there is currently a bipartisan effort before the United States Congress to raise the job development

taxation and ad valorem taxation. The net result of eliminating percentage depletion would be an overall dimunition of the Alaskan tax base.

Another implication of reduced exploration activity is the loss of employment associated with petroleum exploration. In a period of high unemployment this is a particularly germane concern.

Foreign Tax Credits, DISC Deferral

The foreign tax credit makes it possible to avoid double taxation of the same income--once by the foreign government and again by the U.S. and states which have adopted the federal tax system. Since all other industrialized nations avoid double taxation, abandonment of this policy would make American companies non-competitive.

As a result, U.S. companies would be precluded from selling American goods abroad. This would lead to industrial unemployment in the United States and severely damage our balance of payments position.

The DISC deferral of income tax is a measure which corrects for imbalances in international taxation. The European industrial community exempts from the Value Added Tax industrial products which are exported. DISC deferral is the corresponding U.S. tax incentive for exportation. This program was designed to discourage U.S. industry from establishing factories in foreign countries in order to remain competitive. Expatriation of U.S. industry accelerates balance of payment deficits and local unemployment.

These tax policies have in large measure been responsible for the continued success of American enterprise in the world marketplace. To the extent that states eliminate these provisions from state net income taxation, the effectiveness of these tax policies is mitigated.

Conclusion

HB 208 by disallowing certain deductions and credits would disrupt the national scheme for the promotion of economic well-being by a process of "picking and choosing" among tax benefits to be conferred. This process has serious implications for the economic health of Alaska.

HB 208

Tape #	Date
9	3/10
13	3/14
14	3/14
18	3/25
19	3/25
20	3/26
20	3/27
21	3/25
21	4/2

HAROLD D. STRANDBERG, P. E.
CONSULTING ENGINEER
700 GOLD STREET
JUNEAU, ALASKA 99801

PHONE (907) 586-1433

March 17, 1975

Rep. Bob Bradley
Chairman, Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Bob:

Thank you for your letter of March 10, 1975, informing me of the hearing scheduled for March 21st regarding HB 208.

I regret I will be unable to be there to give testimony, as I will be out of town on business at that time.

Very truly yours,
Harold D. Strandberg
Harold D. Strandberg
Consulting Engineer

HDS/srm

Juneau address:
Edward W. Borgen, Sr.
Prospector Hotel - #310

Producers of DISSOLVING PULP

KETCHIKAN PULP COMPANY

[redacted] KETCHIKAN, ALASKA 99901 U.S.A.

EDWARD W. BORGEN, Sr.
Legislative Representative

March 13, 1975

The Honorable Bob Bradley
Chairman, House Commerce Committee
State House of Representatives
Capitol Building
Juneau, Alaska

Re: HB 208

Dear Representative Bradley:

The above bill, relating to Alaska net income tax deductions and credits, was sent to Ketchikan Pulp Company on March 1st. The accounting department there is in the process of making an analysis of the bill to determine the impact repeal might have on the company.

We will not be able to introduce testimony at the hearing scheduled for 8:00 A.M. Friday, and ask that you grant an additional seven (7) days before the next hearing on this legislation. During this period of time a determination can be made whether or not it will be necessary to have a witness appear, or to present written testimony.

Thank you for your consideration of this request.

Respectfully,

Edward W. Borgen Sr.
Legislative Advisor

cc Thomas Flanagan, Pres.
Ketchikan Pulp Co.

Hon. Oral Freeman
Committee Member
House Commerce

AREA 907 272-2519

WILLIAM W. HOPKINS

MANAGER
ALASKA OIL AND GAS ASSOCIATION
302 G STREET [illegible]

ANCHORAGE
ALASKA
99501

PETROLEUM TAXATION AND ENERGY INDEPENDENCE

Are Percentage Depletion and the Foreign Tax Credit Obsolete?

An Analysis of the U.S. Senate Debate on Petroleum Taxation During Consideration of Debt Ceiling Legislation (H. R. 14832), June 17-26, 1974

American Petroleum Institute

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Are Percentage Depletion and the Foreign Tax Credit Obsolete?

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American Petroleum Institute

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SUMMARY

Introduction. During the recent Senate debate on tax amendments to the debt ceiling bill (H. R. 14832), it was agreed that the national interest requires increased domestic output of oil and gas. Yet several Senators proposed elimination of percentage depletion. Can the country have both the increased supplies it needs and a heavier tax burden on the petroleum industry?

I. RECENT INDUSTRY PROFITABILITY. Has the petroleum industry become inordinately profitable? Profit improvement began in 1973; and in the first nine months of 1974, profits of 27 American companies were up 66 percent, giving a rate of return of 21 percent on net worth. In the absence of inventory profits, the return would have been about 18 percent. If the Energy Tax Act, H. R. 17488, had been in effect, the 18 percent return would have been less than 14 percent, apart from the Windfall Profits Tax. The Chase Manhattan Bank has estimated that "The rate of return on invested capital will need to range between 15 and 20 percent." Costs are increasing rapidly, and foreign production profits are threatened by a variety of host government actions.

In a period of severe inflation, generally accepted financial accounting practices overstate real profits. Moreover, the extractive industries generally experience increasing real costs as they tap progressively more difficult geological prospects. Thus, the true profits of the petroleum industry are further distorted.

One "representative study" estimated the capital requirements for the domestic petroleum industry between now and 1985 at $36 billion per year apart from further inflation—four times the expenditure rate of the past five years and far more than current profits.

II. RECENT INDUSTRY TAX BURDEN. Some oil industry critics state that the 1972 Federal income taxes paid by oil companies averaged only about 6 percent of their net incomes. This falsely compares worldwide income with United States income taxes, rather than comparing worldwide income with worldwide income taxes. On the latter basis, the worldwide effective income tax rate for all of the companies was about 50 percent. To raise the 6 percent ratio to 48 percent would require a United States tax increase which would wipe out the companies' worldwide profits.

Looking only at United States income taxes, the base should be United States income. On this basis, the effective United States income tax rate for 1972 was about 25 percent. The analysis should include *all* taxes paid. *Excluding* sales or excise taxes on products, the total petroleum industry tax burden is 6 percent of gross revenue; the average for other businesses is 5 percent.

III. FOREIGN OPERATIONS OF AMERICAN COMPANIES ARE CORRECTLY TAXED. There would most likely be no revenue gain from reducing or eliminating the foreign tax credit provisions for American oil companies operating abroad because taxing on top of the foreign rate would render American firms non-competitive and drive them out of foreign business. This would leave the international oil business in the hands of foreign-owned companies, many of which are owned in whole or in part by foreign governments.

Proposals to eliminate the foreign tax credit for oil companies are grounded in several misconceptions:

(1) Profits on foreign operations are not excessive. Recent foreign profit margins are not sufficient to meet capital requirements.

(2) The oil industry does not use the foreign tax credit to excess. It uses the most foreign tax credits because it has the most foreign income of any American industry; and its foreign earnings are a higher percentage of its total earnings.

(3) The foreign tax credit is not a preferential investment incentive. The foreign tax credit mechanism only assures that American companies will not have to pay double taxes when they invest abroad.

(4) United States oil companies are not investing abroad at the expense of domestic investment. A domestic energy project which is unattractive will not be undertaken until it becomes attractive *on its own terms.*

Adverse changes in the taxation of foreign-source income of American petroleum companies would have no positive impact on the United States economy.

In fact, foreign petroleum investment by American companies is in the national interest. Some imports probably will be either desirable, or necessary, for a good many years. Furthermore, rapid and significant diversification of world sources of foreign oil supplies is crucial to the health of the world economy. Any improvement in the economic outlook in Europe and Japan will help the United States.

During the debate, it was alleged that 20 years ago, Saudi Arabia was induced to disguise its oil royalties as income taxes. No royalty has ever been converted to an income tax. Saudi Arabia added an income tax in 1950 and also kept its royalty. A royalty was paid prior to 1950 and has been paid continuously since that date.

IV. BACKGROUND TO THE JUNE 1974 SENATE DEBATE ON PERCENTAGE DEPLETION. For about six decades, the Internal Revenue Code has provided that an allowance for depletion of the value of oil, gas, and other natural deposits may be deducted from revenues when computing taxable in-

come. The allowance is now computed as 22 percent of gross income, limited to 50 percent of net income. Under various proposals made in Congress in 1974, the allowance is to be retroactively eliminated, phased out, or decreased. Under the Energy tax bill (H. R. 14462), oil prices which exceed the December 1, 1973 ceiling prices would be taxed at rates up to 85 percent of the excess.

V. PERCENTAGE DEPLETION HAS BEEN AN EFFICIENT AND EFFECTIVE INCENTIVE. One recurring theme during the debate was that percentage depletion has been ineffective as an incentive.

Does Percentage Depletion Cost More Than It Is Worth? Careful economic studies have indicated that percentage depletion is very effective relative to its cost. The 1968 CONSAD study cited by some Senators to show that depletion is ineffective has been aptly described by an independent team of university economists as "a dry hole."

Does Percentage Depletion Encourage Production, Not Exploration? A higher price stimulates exploration, discovery, development, and production by rewarding the successful explorer. Percentage depletion also does all of this because the amount of percentage depletion received is a function of price—22 percent of price. If the price of crude oil goes down, some prospects which were formerly profitable become uneconomic. Likewise, repeal of percentage depletion would eliminate prospects which might otherwise have met minimum profit criteria. Either lower price or lower percentage depletion means a lower level of exploration.

Does Percentage Depletion Favor Low-Cost Oil? In a high-cost operation (and in secondary recovery), the depletion allowance can sharply increase the producer's anticipated profits and render certain projects viable which would otherwise fail to meet minimum acceptable profit criteria. If the limitation to 50 percent of net income were removed or relaxed, the allowance would be even more useful in high-cost operations.

Does Percentage Depletion Cause Over-Drilling? When there is a shortage, obtaining oil sooner is desirable so long as the producing rates do not damage the reservoir. This does not happen because the maximum efficient rate of production for each well is normally determined by regulatory agencies based on the physical characteristics of the reservoir.

Is Percentage Depletion Wasted on Landowners? The royalty owners' share of the total amount of percentage depletion taken annually cannot be very great—about 10 percent. Moreover, royalty owners elect to share in the risks of exploration by contributing the pre-exploration capital value of their mineral rights to the exploratory process. Hence, they are entitled to share in the success—if any—of the operation.

It was also contended that percentage depletion is dissipated to landowners in the form of lease bonus payments. However, loss of percentage depletion on existing properties could not be shifted to the landowner because the lease acquisition cost is long since paid and the royalty is fixed. In an increasing cost industry, economic theory would say that "bonuses" on new properties would be no more than required to compensate the landowner for entry onto his land. Bonuses would only be expected to be significant on "bargain" oil prospects that have been kept off the market by government action. On any such remaining low-cost lands, shifting the loss of percentage depletion to the landowner would merely transfer funds within the government, *provided that* oil or gas is found. While bonus is collected before exploratory drilling, the higher tax would only materialize later in the event of success.

Is Percentage Depletion Inferior to a Cash Subsidy? A cash subsidy to all exploration rewards both success and failure. There may be a place for supplemental new incentives which are tied to effort, but percentage depletion is a proved mechanism which rewards only the productive venture.

Does Percentage Depletion Discourage Alternative Energy Sources? Percentage depletion applies to the full value of conventional crude but to only part of the value of the synthetic crude. The easy way to solve this problem is to compute percentage depletion for shale at that point in the process where it becomes a synthetic crude oil comparable to conventional crude. Moreover, elimination of percentage depletion on conventional oil and gas would not make synthetics more attractive. It would make domestic sources, *in total,* less attractive relative to imports.

Has Percentage Depletion Promoted Energy Independence? If depletion were an effective exploration incentive, why did exploration and the number of independent operators decline so sharply after 1956? Without percentage depletion and import restrictions, the domestic industry would have suffered substantially more than it did under government price and profit controls, which have depressed domestic exploratory drilling, encouraged imports, and dampened investment.

The value of depletion as an incentive was also questioned in view of the current decline in production. Rome wasn't built in a day. The industry is clearly responding quickly to the prospect of improved after-tax profits.

VI. PERCENTAGE DEPLETION CONTINUES TO BE AN EFFICIENT AND EFFECTIVE INCENTIVE. With higher prices and profits, the industry is said no longer to need percentage depletion.

Have Higher Prices Substituted for Percentage Depletion? A $7.50 increase in the price of new oil from $3.50 to $11 is a powerful incentive. But eliminating percentage depletion would reduce the effectiveness of the price increase because the incentive effect of percentage depletion is additive to the effect of price. At any given level of price, there will be more exploration with percentage depletion than without.

Could a Higher Price for New Oil Offset Elimination of Percentage Depletion on New Oil? Since the price of new domestic crude oil now reflects world crude oil prices, economic theory would say that—in the absence of offsetting legislation to limit imports or raise their delivered cost—an increase in taxes on domestic new oil could not be passed on to consumers. Elimination of percentage depletion would, therefore, mean lower profits and less exploration.

Could Market Forces Operate to Offset Elimination of Percentage Depletion on Old Oil? During the debate, Senator Humphrey made an eloquent plea for market forces: "Let the market forces work." However, his policy proposal does *not* establish a free market. It does not require elimination of price controls. It does not even require a pass-through of the loss of percentage depletion on gas or old oil. Price ceilings create an artificial shortage which would not exist with market forces operating. Then, the government allocates the supplies and the shortage. Holding price below the market always causes problems of arbitrarily taking benefits from one group and conferring them on another.

Does OPEC Pricing Require Reimposition of Price Controls on New Oil? The proponents of eliminating percentage depletion were concerned because the price of uncontrolled domestic oil reflects the price of foreign oil, which is not related to the cost of foreign oil. But regardless of how the world price is set, any domestic oil that is available at or below that price—or, indeed, somewhat *above* it—is a bargain. Domestic oil is secure. It creates no balance-of-payments problems. And the tax and royalty component of its cost is simply a transfer of money within the United States economy, whereas the tax and royalty component of the cost of imported oil is a payment to foreigners.

Are Higher Prices Cost-Based? Higher prices are *replacement* cost-based. In the extractive industries, higher-cost new prospects must be sought out in frontier areas as time passes because firms tap the lower-cost ones first. In order to achieve energy independence, the oil industry must turn to such higher-cost projects.

Since older, low-cost production is already in place, a higher price for it would allegedly only enrich the producer. But higher profits on "old" oil are a source of funds for reinvestment in exploration and development in an industry which, on the whole, borrows about to the extent of its credit-carrying capacity. They are also justified in view of general price inflation.

Price controls on old oil have a perverse effect on efforts to improve the productive capacity of existing fields. And they artificially stimulate oil consumption when we sould be conserving.

Are Higher Prices High Enough for Energy Independence? How much incentive is enough? It is impossible to say with any accuracy because forecasting import dependence is inherently subject to substantial uncertainty. Required imports are the difference between expected domestic supply and demand, both of which are difficult to forecast in a world of sharply higher energy prices. Accurate forecasting of the difference between two uncertain numbers is virtually impossible.

We can say with confidence that higher prices will mean more domestic production and less consumption. How much more is uncertain. Elimination of percentage depletion would be equivalent to rolling the price back by close to $2 per barrel. When the Nation's security is involved, it is clearly better to err on the side of developing somewhat too much oil than to eliminate percentage depletion and not reach our goals for domestic self-sufficiency.

Might it be possible to fill the domestic independence gap by using synthetics as well as conventional oil and gas? A rapid development program for synthetics is essential, but the long lead times for plant construction make it most unlikely that it will be physically possible to fill the domestic independence gap by 1985 by using synthetics. In any event, synthetic liquid fuels will be no bargain. Recent estimates state that a profitable shale plant would require roughly $10 to $15 per barrel in 1974 dollars.

VII. PERCENTAGE DEPLETION AND COMPETITION. It has been argued that percentage depletion for large integrated oil companies gives them an incentive to raise crude oil prices artificially, thus squeezing profits of non-integrated refiners. This ignores the facts:

(1) In an industry characterized by low concentration and free entry—as in the oil producing business—companies have no discretion as to where they take their profits.

(2) Neither the Internal Revenue Service nor state tax authorities permit companies to adjust their internal crude oil prices arbitrarily in order to minimize taxes.

(3) The benefits from lower Federal income taxes would be more than offset by increases in landowner's royalty and state severance taxes and the cost of purchased oil.

The facts show that independent refiners have improved their market share in recent years.

Percentage depletion is clearly not anti-competitive in the producing stage of the industry, where the depletion allowance is one advantage which many of the independents have over the majors—consider the 70 percent personal income tax and compare it with the 48 percent rate on corporations.

VIII. PRICE EQUIVALENT OF PERCENTAGE DEPLETION. Considerable confusion has arisen over the effect on industry costs and cash flows of losing percentage depletion.

Erroneous Computations of the Price Equivalent of Percentage Depletion. Wholly incorrect estimates of the price required to offset loss of percentage depletion were offered during the debate. One asserted one-third of a cent a gallon. Another asserted 0.6 cents per gallon. Three cents is more like it.

The Average Value of Percentage Depletion. Assuming an average price of $7.50 per barrel and an average industry tax rate of 52 percent, the price increase that would be needed to make the producers "whole" again after eliminating percentage depletion works out to $1.40 per barrel or 3.3 cents per gallon of domestic crude oil. The average price of old domestic crude oil in 1974 is now about $5.25 per barrel; that would call for a price increase of $.79 per barrel or 1.9 cents per gallon of domestic crude oil.

Percentage Depletion and Economic Incentives. The critical economic effect of percentage depletion is found in its impact on new investments in petroleum exploration and production, as well as introduction of secondary recovery and reworking of older, low-yield wells. (Its average value measures the total flow of funds attributable to the allowance.) Newly-discovered domestic crude oil in the United States is selling at a price of around $11 a barrel. Removing percentage depletion on new developments would call for crude oil price increases in the range of $1.77 to $4.47 per barrel, or 4 to 11 cents per gallon for a corporation and an individual in a 70 percent marginal tax bracket, respectively.

Without a compensating increase in revenue, abolishing percentage depletion would cut the oil producer's cash flow by 15 to 30 percent at the margin, and drain the industry of $2-3 billion per year of funds badly needed for reinvestment.

CONCLUSION. A major effort is under way in the United States, Canada, Europe, and Asia to decrease consuming country dependence on OPEC oil. Market forces are spurring an intensive worldwide effort to bring on new supplies. (Domestic capital expenditures by the larger American companies in the first half of 1974 were over twice the 1973 level.) But further effort is needed. Market forces will be more productive of increased indigenous energy supplies with percentage depletion and an unimpaired foreign tax credit than without. "Let the market forces operate" without governmental impairment and without increased taxation.

PETROLEUM TAXATION AND ENERGY INDEPENDENCE

Are Percentage Depletion and the Foreign Tax Credit Obsolete?

INTRODUCTION

A number of proposals have been made to change the tax treatment of the petroleum industry. Despite the obvious and growing problems our country has had in producing enough energy, most of these proposals unwisely seek to increase petroleum taxes. They mark the petroleum industry for punitive legislative action.

How can supplies be increased by increasing taxes? Is there not a dangerous contradiction in such an approach?

During the course of the recent Senate debate on tax amendments to the debt ceiling bill (H. R. 14832), proponents of a tax increase attempted to explain this apparent contradiction in a number of ways. They alleged that petroleum industry profits are too high—higher than are needed—and that the industry pays little or no taxes. U.S. tax rules on foreign earnings were said to subsidize foreign operations at the expense of greater domestic effort, and the petroleum industry was accused of excessive use of the foreign tax credit. Percentage depletion was said to be "inefficient" and "obsolete" as an incentive. Percentage depletion was also alleged to be anti-competitive. Higher prices were said to be all the incentive that is needed for energy independence, but free market prices were said to be too high and to require controls because they are not justified by costs of production.

It was agreed that the national interest requires increased domestic output of oil and gas. Senator Fannin asked:

> We want to get petroleum production in this country, we do not want to be dependent on foreign oil; is that true?

Senator Humphrey responded:

> Senator, the more we can be dependent on our own resources, the better. *[Congressional Record—Senate*, June 25, 1974, p. S 11459*]

"The more we can be dependent on our own resources, the better." That should be the Nation's watchword for energy policy. Yet Senator Humphrey and his co-sponsor colleagues paradoxically proposed elimination of percentage depletion retroactive to the beginning of 1974. Normally, one would think that higher taxes would lead to lower supplies, but the proponents concurrently call for energy independence and for higher petroleum taxes.

What are the facts? Can the country have both the increased supplies it needs and a heavier tax burden on the petroleum industry? Has the time come to eliminate percentage depletion and to increase taxes on foreign-source income by significantly limiting the foreign tax credit applicable to oil and gas produced in foreign countries? How could increased petroleum tax costs be compatible with decreased dependence on oil from insecure foreign sources? This paper will attempt to deal with the urgent policy issues implicit in these many important questions.

*Page citations listed in this way in the text refer to the *Congressional Record*, 93rd Congress, 2nd Session.

I

RECENT INDUSTRY PROFITABILITY

Throughout the debate, the proponents asserted that the petroleum industry has become inordinately profitable:

> So what we are really talking about here is excessive funds in the hands of oil companies . . . [S 11461]
>
> If you take 1974 on both domestic and foreign [profits], Mr. President, we really get up in the stratosphere . . . [S 11473]
>
> The multinational oil companies are now profiting beyond the dreams of avarice from higher oil prices. [S 11478]
>
> Independents currently are getting the largest profits in the domestic industry. [S 11460]

What are the facts? Is the oil industry making too much money?

In testimony on August 13, 1974, before the Subcommittee on Government Regulation of the Senate Select Committee on Small Business, Secretary of the Treasury William E. Simon stated that "... the facts about the profitability of the oil industry are being obscured by a smoke screen of hyperbole and demagoguery—from both sides." Oil company profit reports for 1973 and the first part of 1974 show large increases compared with 1972 and 1973. However, the earlier period represented the lowest profit return on investment since 1964.

Through 1973, oil industry profitability was in the central range of the profit performance of American business generally. The FTC data submitted by Secretary Simon showed the industry averaging eighth or ninth place in the 1958-1973 period among 29 manufacturing industries covered. During the Senate debate, the FTC data were misinterpreted as showing superior petroleum profit performance:

> Mr. President, for the industry over the last 23 years, in 17 of these 23 years the relationship of profits to equity in the oil industry was better than that of, I think, all other manufacturing companies. For every year, I cannot say so, but for 17 out of 23, that is not bad. [S 11473]

In fact, the oil industry was better only by a paper thin margin. The FTC data showed that the petroleum average rate of return over the period was 11.7 percent, while the return for all manufacturing was 10.9 percent—a difference of only 0.8 percentage points. Similar but more comprehensive data from the First National City Bank show oil ahead in only 12 of 23 years with an average return of 12.5 percent for oil and 12.3 percent for all manufacturing.* Inadequate petroleum profits from 1956-1972 contributed directly to a precipitous decline in exploration and to a depressed pace of refinery construction.

Petroleum industry profits increased in 1973 and again have increased in 1974. In the first nine months of 1974, profits of the five largest American international oil companies were up 50 percent from the first nine months of 1973. Profits of a representative group of 27 American companies were up 66 percent to an annual rate of about $14.5 billion. This indicates a rate of return of 21 percent on shareholders' equity in comparison with 14 percent in the first nine months of 1973.

However, a Treasury Department survey of 19 companies showed that 52 percent of the first quarter profit increase was attributable to one-time inventory profits, occasioned by normal sales of crude and product carried on inventory records at the lower prices of an earlier period but sold at today's higher prices. As the Secretary pointed out, these inventories must be replaced at a higher price, and inventory profits do not generate a cash flow that can be used for investment in new capital facilities or for other ongoing corporate purposes. Another 17 percent of the first quarter 1974 profit increase came from chemical operations, and 8 percent from gains on currency fluctuations and profits on tanker operations. Only 26 percent of the first quarter profit increase came from mainstream petroleum operations. Inventory profits persisted in the second quarter, but to a lesser degree than in the first.

Based on inventory profits reported by seven of the 27 American companies, the industry's annual profit rate in the first nine months of 1974 would have been about $2 billion lower, with about an 18 percent return in the absence of inventory profits (but including the chemicals increase). That is a good return, but it is by no means too high. The Chase Manhattan Bank has estimated that if the oil industry is to raise sufficient funds to meet demand, "The rate of return on invested capital will need to range between 15 and 20

*—The City Bank sample for the oil industry includes several major oil producing companies as well as integrated firms and refiners, while the FTC sample includes only those oil companies which engage in refining. The FTC drastically revised the reporting basis for its data series beginning with the first quarter of 1974. Overlapping data for the last quarter of 1973 show that the new data series are not comparable to earlier years.

percent."[1] In recent testimony before the Federal Energy Administration, representatives of two large oil companies were in general agreement with this required range of rates of return.[2] If the Energy Tax Act, H. R. 17488, had been in effect, the 18 percent return would have been less than 14 percent, apart from the Windfall Profits Tax. Enactment of the Windfall Profits Tax proposed by the Committee on Ways and Means would have reduced the 14 percent return further, with the amount of the reduction dependent on how well the industry could satisfy a stringent plowback provision.

It is the mainstream petroleum profitability which must act as the foundation for greater investment to bring on more energy supplies. Unfortunately, there are strong reasons for concluding that it has not yet become a dependable foundation—even beyond the danger of higher taxes.

Petroleum industry profits are reported in accordance with generally accepted financial accounting practices, contrary to allegations made during the debate:

> . . . one must recognize that oil profits are always understated in comparison to the profits of other industries . . . The immediate write-off of drilling expenses is a deduction from profits that is unique to the oil industry, and the vast bulk of percentage depletion also is taken by that industry. Thus, the oil industry enjoys extraordinary opportunities . . . to generate tax-free cash flow that firms in other industries would have to report to profits. [S 11469-11470]

This allegation is wholly unfounded. (A similar comment in a recent letter to *The New York Times* was categorically denied by Price Waterhouse & Co.)[3] The profit data reported by the First National City Bank and the FTC are from financial accounting records which properly allow for these tax savings and which report them as profits. Furthermore, these accounts generally include intangible drilling costs of productive wells as capitalized items; hence, the asset data which are divided into profits to give rate of return are comparable to other industries.

Under stable conditions, generally accepted accounting practices give an accurate picture of a firm's and an industry's performance and health. However, in a period of severe inflation, they give a distorted picture which overstates real profits. Under generally accepted accounting practices, the long-lived assets of a firm are valued at historical dollar costs; and these historical valuations provide the basis for capital amortization charges which allow the firm gradually to recover the capital invested in its long-lived assets. In a period of inflation, however, the real purchasing-power value of the dollar steadily shrinks, and the charges for capital amortization are insufficient to recover the firm's real capital. Amounts set aside to cover capital amortization increasingly fail to reflect the true replacement cost of long-lived assets. Thus, currently reported profits are actually overstated to the extent that they reflect these inadequate capital-recovery provisions. The profit distortion is higher for capital-intensive industries because such a large part of their total costs is accounted for by capital amortization. In what can only be termed a form of economic double jeopardy, these inflation-swollen profits often attract demands for increasing the tax burden of industry on the erroneous pretext of "ability to pay".

The problem is particularly acute for the petroleum industry, which is among the most capital-intensive major industries. The First National City Bank has estimated the eroding impact of inflation on petroleum industry profits since 1950.[4] Its estimate shows that reported industry profits of $10 billion in 1973 amounted to only $5.2 billion when corrected by the gross national product implicit price deflator. The Bank reports that throughout the period since 1950, the gap between real and reported earnings has widened and now accounts for almost half the reported total. Deflated industry rate of return data are not available, but the City Bank study cites one major international oil company which recomputed its profit and asset data in constant dollars. Its rate of return fell to 9 percent from an unadjusted figure almost twice as high.

Quite apart from the problem of inflation, petroleum and the other extractive industries operate in an environment of increasing real costs because, over time, more and more resources must be employed to find and develop new petroleum supplies to replace those that are consumed. This serious problem is analyzed in detail in Section VI - E, but it should be noted here that generally accepted accounting practices do not allow firms to utilize the true replacement costs of their long-lived assets in calculating income. Thus, the true profits of the petroleum industry are further distorted. Even if the United States should soon bring inflation under control, this problem of increasing real replacement costs will continue to plague petroleum industry financial reports.

Whether or not petroleum industry profits will continue at the same levels over the next several years is an exceedingly clouded question. An independent analysis of the profit situation during the last half of 1974 states that:

> Inventory profits cannot be expected to make much of a contribution. Profit margins on worldwide product sales and on foreign crude production have come under pressure because oil output is in excess of demand at present and inventories are high.[5]

This analysis shows no glittering expectation of further increases in rates of return.

Over the longer term, costs are increasing rapidly as much higher-cost, harder-to-find, harder-to-develop replacements are pursued. Foreign production profits, which have been a significant source of funds for increased investment in the United States, are threatened by a variety of host government actions. As the previously mentioned City Bank memo puts it:

> The underlying assets of petroleum companies are presently exposed to erosion from inflation, from nationalization and from reserve-exhaustion. A new investment effort is needed immediately, if this process is to be reversed. Last winter's crisis brought forth the necessary good resolutions; but their fulfillment remains uncertain and the time lags will inevitably be long.[6]

The key question is whether current and expected petroleum industry profitability, even under the present tax rules, will be enough to bring on needed supplies. The magnitude of the task of regaining safe levels of energy self-sufficiency is enormous. Secretary Simon referred to one "representative study" which estimated the requirements for energy capital in the United States between 1974 and 1985 at $850 billion (in 1974 prices), over $400 billion of which would be for the domestic petroleum industry. That is $36 billion per year for petroleum apart from further inflation—four times the expenditure rate of the past five years.

These capital needs cannot be met by any combination of reinvested earnings and debt and equity financing unless there is a substantial and sustained increase in the earnings of the many companies making up what is known as the petroleum industry. Unprecedented 1974 earnings—composed in part of one-time inventory profits, affected by inflation, aided by recovery in the long-depressed chemicals business, and reflecting production out of older, lower-cost reserves—do not furnish support for the assertion that "the industry has all the profits it needs."

II

RECENT INDUSTRY TAX BURDEN

Some oil industry critics direct attention to published compilations of income and tax data which purport to show that the United States income taxes paid by 19 of the largest oil companies constitute only a negligible percentage of their net incomes. The more outraged of the critics take note of the allegedly higher tax burden borne by the "janitors who clean up the offices of these companies" as final and incontrovertible proof that oil industry taxes must be increased.

The most recent of these compilations, published in the *Congressional Record* of June 20, 1974, [page S 11163], states that the Federal income taxes paid in 1973 by the listed oil companies averaged only about 6 percent of their net incomes, with one company paying at a rate of only 1.1 percent.

This compilation is falsely done, as has been true of similar ones in the past. The fallacious basis of the method has been repeatedly pointed out. And during the debate, Senator Bartlett again demonstrated the fallacy in response to a quotation from the table purporting to show that the 1973 Exxon tax rate, for example, was 5.4 percent:

> He does not say whether that is Federal tax as a percentage of U.S. income or Federal tax as a percentage of worldwide income. What it is, it is Federal taxes . . . [as a] percentage of worldwide income. If we list all the taxes for Exxon, it would amount to 60.6 percent in taxes, not royalties, that they are paying as a percentage of their total net income worldwide. [S 11467]

By comparing apples and oranges, the tabulation inevitably shows a distorted view and creates an erroneous impression. The apparently negligible income tax burden of United States oil companies is "proved" by comparing worldwide income, on which both United States and foreign tax is paid, with United States income taxes alone, rather than comparing worldwide income with worldwide income taxes. When compared on the latter basis, the data in the table show that the worldwide effective income tax rate for all of the companies was over 49 percent—not 6 percent. Moreover, the tax data for some companies do not include taxes paid by some of their largest foreign affiliates. Inclusion of these taxes would increase the 49 percent effective tax rate.

It was argued during the debate that the worldwide tax rate is irrelevant for purposes of the United States Congress because that body cannot control foreign tax laws:

> We do not have control over taxes on foreign oil. Other countries control them . . . therefore, I thought most likely we ought to kind of confine ourselves to the tax laws of our own country. [S 11473]

But the tax laws of our country (and all other major industrial countries) *do* recognize the primacy of host country taxation. And the Congress should not permit itself to ignore foreign taxes to the extent of imposing unreasonable overall tax requirements on American companies.

Perhaps the basic illogic of the 6 percent tax burden computation can best be illustrated by considering how much tax the Congress would have to impose in order to raise the 6 percent rate to 48 percent (United States tax divided by worldwide income). A tabulation of 1972 tax and income data for 18 American oil companies showed worldwide net income before foreign and domestic taxes of $13.3 billion and profit after taxes of $5.5 billion.[7] The United States tax was $0.9 billion, for a 6.8 percent ratio [0.9 ÷ 13.3 = 6.8 percent]. To raise that ratio to 48 percent would require a total United States tax of $6.4 billion [.48 x 13.3 = 6.4]. That would be a United States tax increase of $5.5 billion, *which would wipe out 100 percent of the companies' worldwide profits.* Their total United States tax would be 136 percent of their domestic-source income. (The incomplete data in the tabulation in the *Congressional Record* would indicate a loss of 80 percent of worldwide profits.)

If one wishes to look only at United States income taxes, the base should be United States income. Foreign income, generated by operations conducted outside the United States and subject to the prior taxing rights of the host foreign governments, should be excluded—or excluded at least to the extent that it is subjected to a foreign income tax as high or higher than the United States tax would be on that income. Computed on this basis, the tabulation of data from 18 large American petroleum companies showed that their effective United States income tax rate for 1972 (the most recent year for which such data were available) was 25.6 percent—not 6 percent.[8]

To give the entire picture of comparative tax burden, the analysis should include all taxes paid. The petroleum industry bears more than its share of direct or non-income taxes, levied particularly by state and local governments. *Excluding* sales or excise taxes on products sold to consumers, a greater portion of

petroleum industry revenues is paid over as taxes to Federal, state, and local governments than is paid on the average by other U.S. industries. The total petroleum industry tax burden is 6 percent of gross revenue; other businesses pay 5 percent.[9]

In short, the facts are that the petroleum industry bears a Federal income tax burden, properly computed, of over 25 percent; and when all taxes paid in the United States to all levels of government are considered, it has a tax burden greater than the average for U.S. businesses.

III

FOREIGN OPERATIONS OF AMERICAN COMPANIES ARE CORRECTLY TAXED

Because of its heavy foreign income tax burden, the American petroleum industry pays little United States tax on its foreign operations. Accordingly, some proposals heard in the Senate debate would reduce or eliminate the foreign tax credit provision for American oil companies operating abroad:

> . . . if we were trying to seek some revenue from all American companies which have investments abroad, and if we were to change the foreign tax credit to a deduction instead of a credit, the Nation would gain about $4 billion in additional revenue. It may be that tax rate would be altogether too high. I would be the first to concede that it would be if we add the American tax upon the foreign tax that has been imposed; but if we were to tax them at just one-half that rate, that would bring more tax revenue of $2 billion. Of that amount, approximately $1.25 billion, or about 60 percent, would be revenue derived from U.S.-based multinational oil companies. [S 11484]

In fact, all of these revenue estimates are overstated. There would most likely be *no* revenue gain because taxing on top of the foreign rate at either a full or half United States rate would render American firms noncompetitive and drive them out of foreign business. With no foreign business, there would be no tax revenue.

These proposals to eliminate the foreign tax credit for oil companies are grounded in several misconceptions.

A. Are Foreign Profits Too High?

The proponents argue that the United States should increase its taxes on foreign operations because a large part of the recent higher petroleum industry profits has come from those activities:

> . . . [in 1973] the seven largest international oil companies reported a percentage increase of 6.4 of their profits in the United States, while they reported a profit increase of 136 percent in their foreign earnings. [S 11473]

However profits on foreign operations are still not excessive despite substantial increases since 1972.

Most production from foreign oil fields, particularly in the Middle East, has a low unit cost. The reservoirs are large, and the production per well is much greater than in the United States. However, taxes are also very high; and per barrel profit generally has been very modest—contrary to a popular misconception:

> . . . Middle East oil sells for about $10.00 per barrel, which leaves an awfully large profit of some $3.00 per barrel. [S 11262]

The complete story is quite different.

Gulf Oil Corporation recently stated that for the first half of 1974 in Kuwait, it purchased an average of 663,000 barrels per day of government oil at a buyback price of $10.85 for the first five months and $10.95 for June. Gulf's entitlement of equity oil was 510,000 barrels per day. This equity oil cost Gulf $7.03 per barrel, after taxes, royalties, and operating costs. Thus, Gulf's composite cost per barrel (the only relevant cost because one barrel would not be available without the other) was $9.19, not $7.00. Published estimates indicate that Gulf probably sold this oil at an average price of about $9.50 per barrel, giving a per barrel profit of something over 30 cents.[10] Similarly, Exxon Corporation has stated that its profit on Middle East oil is considerably less than 50 cents per barrel.[11]

Profit margins under 50 cents per barrel are not enough to provide the funds needed to meet the capital requirements necessary to supply future worldwide energy demands. It is important to the United States that supplies be generated to meet these demands, both from the wider viewpoint of world economic and political stability and from the narrower concern of the price we ourselves will have to pay for imported supplies pending the time when greatly increased domestic production can be brought on stream.

Foreign producing countries are well aware that if there is any room left to reduce the overseas production profits of American companies, it is they as the host governments who will exact the tax increases. OPEC Resolution 90 of June 25, 1968, is a declaratory statement of petroleum policy in member countries. It includes a renegotiation clause stating that:

> Notwithstanding any guarantee of fiscal stability that may have been granted to the operator, the operator shall not have the right to obtain excessively high net earnings after taxes. The financial provisions of contracts which actually result in such excessively high net earnings shall be open to renegotiation.

It goes on to define excessively high net earnings as:

> . . . net profits after taxes which are significantly in excess, during any twelve-month period, of the level of net earnings the reasonable expectation of

which would have been sufficient to induce the operator to take the entrepreneurial risks necessary.

This policy clearly does not leave any room for additional United States income tax which is proposed contrary to the universally accepted policy of international taxation that the host government has prior rights to tax income having a source within its boundaries. On September 12, most of the OPEC countries once again asserted their primacy in tax jurisdiction by raising oil taxes; three countries raised taxes again in November.

Nor do foreign refining and marketing profits offer a more likely source for new taxes. A study released by the First National City Bank showed that 25 companies in Western Europe realized a rate of return of only about 5 percent on refining and marketing activities for the decade before 1973.[12] Even though these profits increased substantially in 1973, along with profits from chemicals operations, they barely reached acceptable levels. Demand has gone down in 1974 in Europe and Japan (as well as in the United States) due to the increased prices, high inflation, and unsettled business conditions. When this is coupled with price controls which are in effect, it is probable that foreign refining and marketing profits will have shown no improvement in 1974.

B. Is The Foreign Tax Credit A Tax Incentive?

Some critics further argue that the foreign tax credit is an incentive for American companies to go abroad, rather than explore for and develop domestic resources:

> . . . this Nation, imprudently in my judgment, has had policies in effect that made it more profitable for people to find and produce oil overseas than to find and produce it here. [S 11260]

The foreign tax credit is not an incentive. Foreign taxes on petroleum operations are higher, not lower, than United States taxes. The foreign tax credit mechanism—which is applicable to all companies in all industries, not just oil companies—only assures that American companies will not have to pay double taxes when the foreign tax burden is already as high or higher than the United States tax burden would be if the same operations were conducted in the United States. It makes the United States tax treatment of business ventures neutral as between domestic and foreign operations.

If the foreign tax credit is eliminated for American petroleum companies, the effect will be to drive them out of foreign exploration and production. As former Assistant Secretary of the Treasury, Stanley S. Surrey stated,

> American investment would not proceed at all without the foreign tax credit because then two taxes would be imposed and the overall burden of two taxes would be so great that international investment would practically cease.[13]

Profits on foreign operations do not represent a source which either should or, realistically, can be taxed by the United States. The United States, of course, could change its laws and eliminate or reduce the foreign tax credit in an attempt to tax these profits, but the clearly predictable result would be to make U.S. companies non-competitive and force them to surrender the operations to the competitor companies of other nations.

C. Is The Foreign Tax Credit Over-Used By Oil Companies?

Some critics say that the oil industry uses the foreign tax credit to excess:

> . . . Recently I learned that no other U.S. industry uses the foreign tax credit on the same massive scale as the oil industry. The U.S. oil companies take more than 45 percent of all foreign tax credits claimed by U.S. industry. For U.S. industry as a whole, foreign tax credits reduced U.S. tax bills by less than 15 percent in 1971, compared to more than 75 percent for the oil companies. [S 11468]

Of course the oil industry uses the most foreign tax credits. It has the most foreign income of any American industry. And its foreign earnings are a higher percentage of its total earnings.

A straight-forward explanation of the foreign tax credit was given by George P. Shultz, then Secretary of the Treasury, in his February 4, 1974, testimony before the Committee on Ways and Means:

> The major nations of the world have a network of systems designed to avoid excessive double taxation of income. Those systems vary in detail but fall into two general categories. Under some systems, income earned abroad is simply not taxed in the home country. France, and the Netherlands, for example, have systems which generally follow that basic concept. Other countries, including the United States, Great Britain, Germany, Canada, and Japan—our major trading partners—have tax credit systems.
>
> The basic concept of a tax credit system is that the country in which the business activity is carried on has the first right to tax the income from it even though the activity is carried on by a foreigner. The foreigner's home country also taxes the income, but only to the extent the home tax does not duplicate the tax of the country where the income is earned. The duplication is eliminated by a foreign tax credit . . .
>
> Note that the foreign tax credit only affects income earned in some foreign country through ac-

tivities conducted in that country. Income arising out of operations conducted in the U.S. and the taxes on that income are totally unaffected by the credit.[14]

The foreign tax credit prevents double taxation and does not result in lower taxes on domestic-source income.

Secretary Shultz then presented a graphic table which clearly demonstrates why the oil industry uses more foreign tax credits than other industries:

> The following table permits one to understand the fact that high taxes are being paid by the oil industry to foreign governments on the large proportion of non-U.S. income that is earned by these corporations; that the United States gives a credit for U.S. taxes on the foreign-source income that results in an excess credit; that these credits do not reduce U.S. income taxes on the income earned from U.S. operations; and that the same basic tax credit principle operates for all U.S. industries, not merely oil.[15]

The table referred to appears on the next page as Exhibit A.

The table shows that oil companies had $3.2 billion of taxable foreign income in 1970 and used about $1.6 billion of foreign tax credits (48 percent normal corporate rate plus a surtax of 1.2 percent):

	Foreign	Domestic	Total
	Billion Dollars		
Taxable Income	$3.2	$1.6	$4.8
Potential U.S. Tax	1.6	0.8	2.4
Foreign Tax Credit	2.4	—	2.4
Unused Credit	0.8	—	0.8
Actual U.S. Tax	—	0.8	0.8

The companies had another $0.8 billion of unused credits. These unused credits did not reduce their United States tax on United States-source income. United States source-taxable income was $1.6 billion with a tax of about $0.8 billion (48 percent plus surtax). The total potential United States tax was about $2.4 billion on a worldwide income of $4.8 billion, and the usable foreign tax credit of $1.6 billion "reduced" the potential tax by two-thirds to $0.8 billion [1.6 ÷ 2.4 = 2/3]. (A 75 percent reduction was cited above for 1971, when foreign taxes were higher.) But there is nothing sinful about that two-thirds "reduction". It merely reflects the fact that two-thirds of the taxable income was earned abroad [2.4 ÷ 3.6 = 2/3].

Consider, as a random example, firms in the Computers and Business Machine Industry. The table shows that they had taxable income of about $0.8 billion abroad and had a usable foreign tax credit of $0.4 billion:

	Foreign	Domestic	Total
	Billion Dollars		
Taxable Income	$0.8	$1.2	$2.0
Potential U.S. Tax	0.4	0.6	1.0
Foreign Tax Credit	0.5	—	0.5
Unused Credit	0.1	—	0.1
Actual U.S. Tax	—	0.6	0.6

They had about $1.2 billion of taxable income at home and paid about $0.6 billion in domestic taxes. Their total potential tax was about $1 billion on $2 billion of worldwide taxable income. Their usuable foreign tax credit saved $0.4 billion in taxes, a "reduction" of "only" 40 percent, in comparison with a "reduction" of two-thirds for oil. But their taxable foreign earnings were also only 40 percent of their worldwide total. As with oil, their "reduction" in United States tax equals the ratio of foreign taxable income to worldwide taxable income. It is all the same foreign tax credit for everyone, and the oil industry does not use it to excess.

D. Is An American Presence In The International Oil Industry Desirable?

If the foreign tax credit were denied to American oil companies, they could no longer compete abroad with foreign-owned companies. Sooner or later, American companies would have to surrender their position in the supply and distribution of crude in world markets, including the United States import market. This would leave the international oil business in the hands of foreign-owned companies, many of which are owned in whole or in part by foreign governments. Nonetheless, some have urged that this would be an entirely acceptable, indeed desirable result. They charge that United States oil companies are investing abroad at the expense of domestic investments and that increasing foreign oil production is of little or no benefit to the United States:

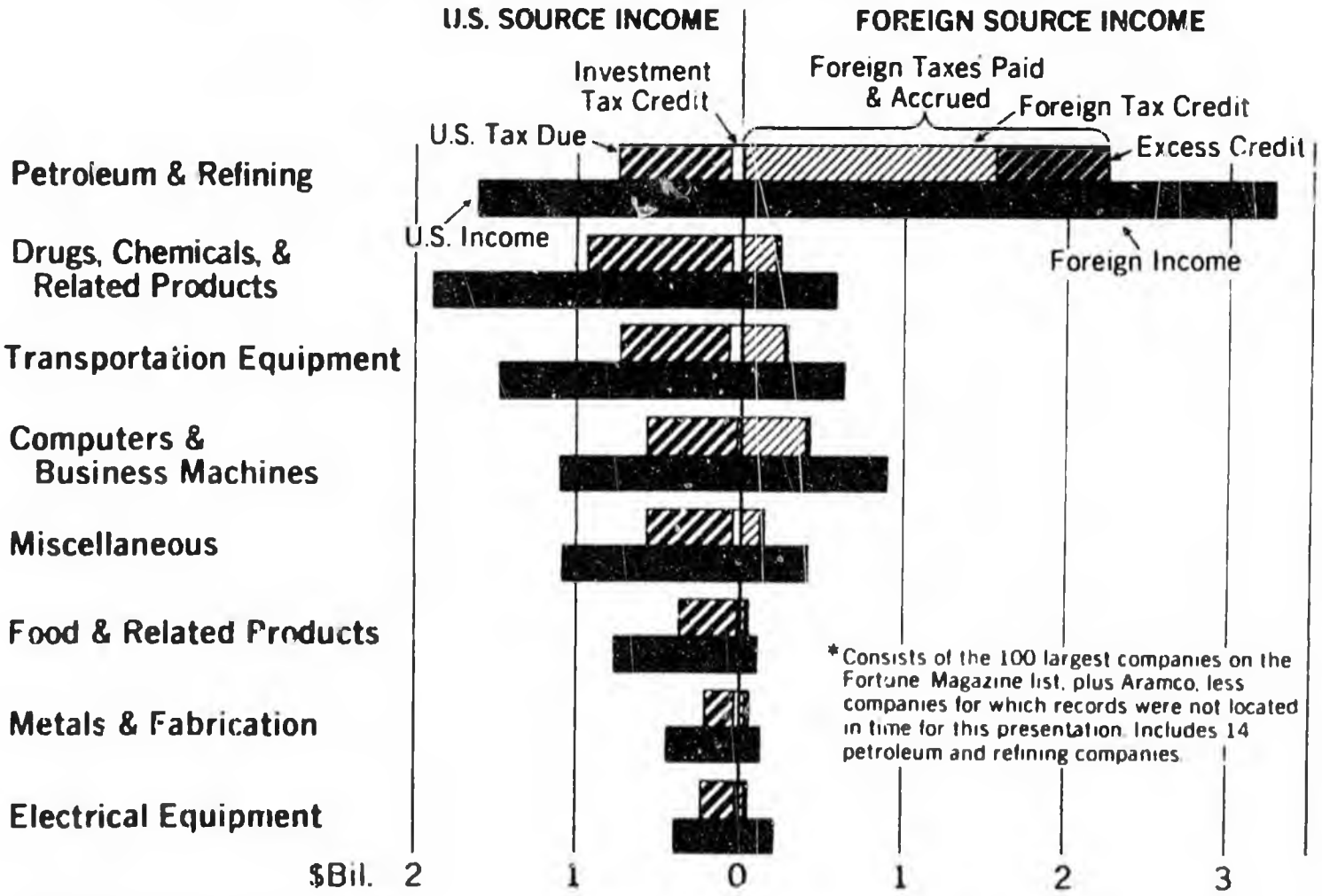
> . . . that economic policy . . . resulted in our drilling rigs and investment capital being used to drill and produce more oil in foreign countries . . . than in producing it here.
>
> . . . this Nation is still fabricating drilling platforms and drilling rigs to be placed on the bottom of the North Sea to produce oil for England and European nations generally . . . In time of need, we cannot rely on one barrel of that oil. It will go to Europe. [S 11260]

Neither charge will stand up under close analysis.

There is a shortage of drilling equipment at that moment, but that is a transitory matter which will be corrected as new manufacturing capacity is developed. It has not prevented a 25 percent gain in domestic drilling (first half 1974 vs. 1973), and it must not be used as an excuse to change tax policies which are in the long-run interest of the country.

Exhibit A

INCOME AND TAXES PAID, OF THE 79 LARGEST U.S. COMPANIES,* 1970



*Consists of the 100 largest companies on the Fortune Magazine list, plus Aramco, less companies for which records were not located in time for this presentation. Includes 14 petroleum and refining companies.

Office of the Secretary of the Treasury.
Office of Tax Analysis

January 31, 1974

Investment capital, whether it is provided by large oil companies or small individual investors, flows into projects based on each project's anticipated, risk-weighted, after-tax return on investment. If United States prices are higher and the United States economic and political climate more favorable, more domestic projects will be undertaken and more supplies brought forth than if the opposite is true. But a domestic energy project which is unattractive does not magically become attractive if the potential investor is told that he is no longer free to consider a potential foreign project. The unattractive United States energy project will not be undertaken until it becomes attractive *on its own terms*, compared with all other alternatives, foreign or domestic, inside or outside the energy field, including the alternative of making no long-term investment commitment until conditions improve. Since raising United States taxes on foreign petroleum investments would not improve the rate of return on domestic projects, eliminating the foreign tax credit would not increase petroleum exploration in the United States.

Foreign petroleum investment by American companies *is* in the national interest. Unquestionably, with oil imports approaching 40 percent of total domestic consumption, the United States is now overly dependent upon imported petroleum. We must increase our self-sufficiency ratio to a reasonable level, but it will take several years even to reverse the trend toward increasing imports. Some safe level of imports probably will be either desirable, or necessary, or both, for a good many years. As an importer and a member of a world of increasingly interdependent countries, it is in the direct interests of the United States to see world oil supplies increased, particularly to see that they originate from more diversified sources, and to ensure that American oil companies play a major role in this effort.

Foreign investment does not destroy American jobs. Indeed, there have been a number of studies by both government and academicians which indicate that foreign investment by American companies does not reduce employment in the United States. Rather it creates premium pay jobs. For example, the Department of Commerce has pointed out that:

> . . . the rate of employment growth in United States companies with large direct investments overseas was larger than the nation as a whole and that the jobs in these firms earn more pay and are supported by higher capital than those in other sectors of the economy.[16]

Moreover, commerce believes that United States investment abroad is responsible for one quarter of all United States exports of manufactures.

A study by Professor Robert Stobaugh (of Harvard University) commissioned by the Commerce Department estimated that 600,000 American jobs are created by United States direct foreign investment.[17] This is not to say that these workers would remain unemployed without the export of United States goods and services to foreign subsidiaries of American companies (although that might be the outcome in an economy which has rarely had less than 5 percent peacetime unemployment since the 1920's). However,

> . . . alternate jobs would pay lower wages, since the average wage rates in U.S. export industries are considerably higher than those in other sectors of the economy.[18]

Foreign investment is an economic plus for the domestic economy.

Not only are domestic jobs benefited from foreign investment and the net United States balance of payments improved, but the United States voice in the current movement of international supplies is protected. Almost every other consuming government is supporting and even subsidizing its oil companies to strengthen their position in international oil operations in order to establish more positive control over their own imports (see Exhibit B). It is almost bizarre that at the same time legislative proposals in the nature of penalties are seriously urged in this country to discourage foreign operations of American companies, other consuming countries are pursuing an antipodal course.

Beyond the direct benefit of foreign oil investment to the American economy, rapid and significant diversification of world sources of foreign oil supplies is crucial to the health of the world economy. The observation that North Sea oil will not flow to the United States is very likely correct. Nonetheless, North Sea oil and gas *will* certainly help the United States; and the more that is found, the better. More petroleum production in Europe will diminish the massive European balance-of-payments problem created by the OPEC cartel when it quadrupled oil prices late last year. Europe's imported oil bill will be about $60 billion this year. Japan will spend some $20 billion for oil imports this year, and this country will spend $25 billion. That is more than $100 billion for the industrialized countries—an increase of more than $60 billion over 1973.

Since the oil exporting countries cannot import anything like $100 billion worth of goods and services from the consuming countries, the producing countries are building up huge balances of liquid assets in Europe and the United States. In 1974 alone, OPEC imports of, say, $30 billion of goods and services would leave them an investable surplus of some $70 billion. The imbalances that could occur if even a part of these funds were shifted from one country to another constitute a grave potential menace to the stability of the international monetary system. As long as the principal consuming countries are heavily dependent on im-

Exhibit B

Summary Statement of Tax Treatment and Other Incentives for Foreign Petroleum Operations by Companies Domiciled In:

(1) *France*
Other Incentives:

Does not tax.

None for private companies. (Government finances wholly-owned government company and owns substantial interest in large private company.)

(2) *Japan*
Other Incentives:

Taxes on overall basis with credit.

Exploration loans of up to 50% not repayable in the event of failure; government guarantees of bank loans for exploration and development; percentage depletion at 15% with reinvestment requirement; expensing of dry holes.

(3) *Netherlands*
Other Incentives:

Does not tax.

Allows deduction of foreign losses from domestic income.

(4) *United Kingdom*
Other Incentives:

Taxes on per country basis with credit.

Expensing of all pre-discovery costs; expensing of plant and machinery expenditures; rapid depreciation of other post-discovery expenditures. Allows a form of averaging of foreign losses and profits similar to U.S. overall method. Allows deduction of a net foreign loss. (Government owns substantial interest in large private company.)

(5) *West Germany*
Other Incentives:

Taxes on the per country basis with credit.

Outside the Common Market, exploration loans up to 75%, not repayable in the event of failure—50% of a loan may not be repayable in the event of discovery; expensing of all exploration costs; rapid depreciation of tangibles and intangibles. Allows deduction of a net foreign loss.

(6) *United States*
Other Incentives:

Taxes on the per country or the overall basis with credit.

Percentage depletion; expensing of dry holes and intangibles on producing wells (but no deduction of pre-discovery costs other than dry holes, until properties are abandoned). Allows deduction of a net foreign loss.

Source: U.S. House Committee on Ways and Means, Hearings on *The Administration Emergency Windfall Profits Tax* (Washington, February 4, 5, 6, and 7, 1974) p. 472.

ported oil, these financial surpluses owned by OPEC countries will continue to mount. Collapse of the international monetary system because of European and Japanese balance-of-payments deficits would be as disastrous for the United States as for Europe and Japan.

The world economy is now seeing desperate attempts by a number of the major industrial nations to deal with double-digit inflation and their oil balance-of-payments problems by slashing oil demand, restraining growth, reducing imports, and spurring exports. One country might find that to be a useful policy. But what is going to happen to the world economy if *every* country tries this policy? How can everyone stimulate exports and reduce imports? If pursued by a number of countries, "competitive deflation" could lead to world depression by wiping out the market for exports.

The United States must not forget that the world economy is inescapably interrelated. Anything that this country can do to diminish the world's oil balance-of-payments problem is in our national interest. International diversification of oil supply is the basic way to achieve that goal. Encouraging American oil companies to continue to participate in finding new sources of oil—especially in the consuming nations—is clearly in the national interest. Even if not one barrel of that new oil flows to the United States directly, it will advantage this country indirectly by aiding the economies of our allies and trading partners. Unquestionably, any improvement in the economic outlook in Europe and Japan will help the United States.

E. Are Foreign Income Taxes Actually Royalties?

The ancient charge that income taxes paid to foreign producing countries are actually royalties appeared again during the Senate debate.

> . . . By some agreements 20 years ago, the Arabian countries were induced, instead of reserving a royalty on the minerals which they leased to foreign companies . . . to disguise those royalties into the form of income taxes . . . and since that time . . . it was . . . executive policy to allow these royalties to be credited against taxes due the Federal Government even though they were properly entitled to treatment only as ordinary and deductible business expenses. [S 11483]

In fact, Saudi Arabia *added* an income tax which is separate and distinct from the existing royalty. And royalties are never credited against United States income tax; they are deducted from taxable income, as is done with business expenses generally.

These allegations were given widespread attention in recent hearings of the Subcommittee on Multinational Corporations of the Senate Committee on Foreign Relations (Church Subcommittee). The facts of the Saudi Arabian case were succinctly and accurately described in sworn testimony before that Subcommittee:

> The fact is that no royalty was, or ever has been, converted in Saudi Arabia to an income tax. A royalty was paid prior to 1950 and has been paid continuously since that date to the Saudi Arab Government. Furthermore, it has always been treated as a deduction, not as a tax credit, for the purpose of calculating U.S. income tax liability. All that happened in 1950 was that Saudi Arabia did what almost every developed western country had already done, namely, to adopt an income tax. It was also following the precedent of Venezuela, one of the major oil-producing competitors of Saudi Arabia. Saudi Arabia could not afford to adopt a tax structure which would put its oil at a competitive disadvantage with Venezuela, which, at that time, was its major competitor for European outlets. Once the income tax was adopted, the income tax paid to the Saudi Arab Government became creditable against the U.S. tax liability of the producing company with respect to income earned in Saudi Arabia as a result of provisions of the Internal Revenue Code which had been around since 1918 and which in one form or another appear in the tax laws of the other principal industrialized countries of the world.[9]

Since 1950, Aramco has paid both taxes on its income and a royalty to the Saudi Arabian government. In fact, the royalty is higher today. Around the world, producing country governments collect bonuses for issuance of leases plus royalties which were formerly about 1/8 to 1/6 of the value of oil as it is produced. Most exporting countries have recently raised these royalties. In comparison, the usual royalty collected by the United States government is 1/8 onshore and 1/6 offshore.

A foreign government deals with the oil industry in two capacities: (1) as the owner of natural resources in place; and (2) as a sovereign taxing power. The foreign government collects a royalty as the owner of the natural resources; and it levies an income tax on the profits in its capacity as the taxing sovereign. Each payment is separate, and each is made for different reasons. In recognition of this distinction, a United States tax deduction is allowed for the royalty; and a United States tax credit is allowed for the income tax to the extent that the United States would tax the same income. Thus, a tax credit is *not* allowed for oil royalties paid to foreign governments. This system of payments is used in Canada, the United Kingdom, Australia, Venezuela, and the Persian Gulf. It parallels payments to the United States government on its own oil lands. The United States government collects a royalty as the landowner and levies an income tax on the profits as the taxing sovereign. There is no reason to treat payments to foreign governments differently.

The argument that the entire payment to foreign governments is a royalty is without merit because it implicitly [illegible]es a sovereign government the right to levy an in[illegible] in addition to a royalty on oil production in its ju[illegible]iction. The United States can surely not deny the right of a sovereign foreign government to tax corporate profits. As Mr. Sanford Ross recently told the Church Subcommittee:

> Oil companies as well as manufacturing and other multinational companies should expect to pay some reasonable amount of income taxes to host or source countries and, in fairness, only a part of what is paid to Middle Eastern countries could equitably be treated as a royalty.[20]

At least part of the payment to governments must be a tax. Since royalty rates abroad are similar to those in the United States, the contention that foreign taxes should also be considered royalties cannot be sustained.

IV

BACKGROUND TO THE JUNE 1974 SENATE DEBATE ON PERCENTAGE DEPLETION

For about six decades, the Internal Revenue Code has provided that an allowance for depletion of the value of oil, gas, and other natural deposits, may be deducted from revenues when computing taxable income. Prior to 1926, the allowance was based on the discovery value of the property. The allowance is now computed as a percentage of the gross income from the property (excluding rents or royalties), so long as the allowance does not exceed 50 percent of the taxable income from the property. This "percentage depletion" allowance was designed to simplify calculations of the discovery value of oil and gas deposits which are depleted by production. From 1926 to 1969, the allowance for oil and gas was 27-1/2 percent.

In 1969, the allowance was decreased to 22 percent. Moreover, the depletion allowance was subjected to the 10 percent minimum tax on tax preferences, which can reduce the effective allowance to a rate as low as 17.4 percent. (The difference between 22 percent and 17.4 percent is 4.6 percentage points—which is the amount of gross income required to generate taxes equal to 10 percent of the 22 percent allowance, at a tax rate of 48 percent on profits [2.2 ÷ 48 = 4.58%].)

Under various proposals made in Congress in 1974, the allowance is to be retroactively eliminated, phased out, or decreased. A bill entitled "The Oil and Gas Energy Tax Act of 1974" was reported out by the Committee on Ways and Means of the House. It has now been tentatively incorporated in a proposed general tax reform act. The Energy tax bill (as later amended by tentative decisions of the Committee) proposes to reduce the percentage depletion allowance to 15 percent retroactive to the beginning of 1974, reduce it further to 8 percent in 1975, and eliminate it on January 1, 1976. However, the 15 percent allowance would continue from 1974 until January 1, 1979, and be eliminated thereafter for any one of the following: (a) the first 3,000 barrels per day produced, (b) all wells with production of 10 barrels per day or less of crude oil (generally known as "stripper wells"), or (c) all wells within the Arctic Circle. Each taxpayer would elect one of these three exemptions.

The limitation of the allowance to 50 percent of taxable income on a property would be increased to 100 percent. This would provide temporary additional incentive for producing oil from marginal wells.

For regulated natural gas and natural gas sold under existing fixed price contracts, percentage depletion would remain as long as the average price does not exceed the equivalent price of oil, as measured by heat value. The allowance for percentage depletion on all foreign oil and gas production would be eliminated.

Under the Energy tax bill, the tax burden for oil producers would be further increased in two ways. First, oil prices which exceed the December 1, 1973, ceiling prices established by the Cost of Living Council would be taxed at rates up to 85 percent of the excess. Second, this tax would lower the base on which depletion allowances are calculated, thus further decreasing the effective depletion allowance. After 1975, the tax could be offset by most new investments in the oil and gas business, provided that total investment exceeds a stringent threshold level. A similar offset of up to 50 percent of the tax could be obtained in 1975, but there would be no offset in 1974. Starting in 1974, producers of 3,000 barrels per day or less could obtain full credits against the tax for such investment.

It was against this background of impending punitive taxation of petroleum profits that a group of Senators launched a determined effort to eliminate percentage depletion by attempting to attach a tax reform rider to the debt ceiling bill at the end of June 1974.

The ensuing Senate debate on the debt ceiling bill generated considerable heat, but very little light, as to the merits of the allowance for percentage depletion as an incentive to increase domestic oil and gas supplies. Before considering the merits of the Senators' case against percentage depletion, one must question their continual labeling of the deduction as a "subsidy." While long popular among oil industry critics, this designation certainly departs from the accepted definition of "subsidy" as a payment by government, unless one assumes that some fixed portion of all income belongs to the Federal Government, which then "pays out" that portion remaining after deduction of Federal income taxes.[21]

For a corporation, for example, the difference between any lower tax rate and 48 percent is said to be equivalent to a payment from the Federal Treasury to the "favored" company. It is a "tax expenditure." It seems doubtful that most people in the United States are prepared to accept this thesis, which is alien to the United States constitutional system. Sovereignty rests with the people; and governments at all levels are entitled only to those revenues which the people—through their elected representatives—see fit to give them.

Percentage depletion (or its antecedent, discovery value) has been in the tax laws for almost six decades. The depletion deduction was enacted by Congress in recognition that the national interest requires that income arising from the exploration, development, and depletion of natural resources be taxed on a basis differing from that applicable to industries that do not exploit natural resources. Congress has made many such distinctions in taxing the income of differing industries. These distinctions do not constitute "subsidies." Recognition by the Congress that all income ought not to be taxed in the same manner is the result of long-standing Congressional policy that the national interest requires, among other things, that capital formation not be disrupted, in any industry, by failing to take into account the special and peculiar sources of income involved. This is what Congress has deliberately done with respect to petroleum and over 100 other minerals by enacting depletion laws, not as subsidies but as provisions appropriate to capital recovery and capital formation.

V

PERCENTAGE DEPLETION HAS BEEN AN EFFICIENT AND EFFECTIVE INCENTIVE

One recurring theme of the critics during the Senate debate was that percentage depletion has been ineffective as an incentive and should therefore be abolished:

> . . . percentage depletion is an ineffective incentive for oil exploration. [S 11454]

Percentage depletion is accused of being too costly, misdirected, ineffective, and counterproductive to achieving energy independence.

A. Does Percentage Depletion Cost More Than It Is Worth?

In the record of the Senate debate, we find great reliance still being placed on the 1968 CONSAD study even though it has been thoroughly discredited:*

> One cost-benefit study of the oil depletion provision found that the average annual revenue loss of aproximately $1.4 billion generated additional petroleum reserves valued at an average of only $150 million per year. So . . . the percentage depletion subsidy is highly ineffective. [S 11454]

The CONSAD study was, in fact, inappropriately conceived. Its basic mathematical model contained fundamental flaws. As described by an independent team of university economists in 1973, it was "a dry hole."[22] (The oil industry made this clear to the Congress shortly after the study was released in 1969.)[23] The quoted cost-benefit conclusions of the study are of no use—if for no other reason than that it assumed that oil production would remain constant regardless of the level of price. As a matter of fact, the CONSAD study was never intended to determine how exploration and the total level of reserves would respond to changes in price. It was designed to determine how the optimum amount of reserves held in the ground would vary with price *assuming a constant level of production.* That exercise is quite similar to determining how the optimum level of inventories in a retail store would change if price were to change *assuming a constant level of sales.* The model was so flawed that the study did not even succeed in providing a meaningful evaluation of the inventory question. More important, this inventory problem is a very different matter from the really significant national security question, which is how petroleum exploration and the entire scale of operations in the industry will change as price changes. In fact, higher prices (or price plus depletion) will mean more production and reserves.

It is not correct that:

> . . . careful economic studies have indicated unambiguously that . . . [percentage depletion] is very ineffective relative to its large cost in stimulating exploration. [S 11146]

On the contrary, economic studies other than the misformulated CONSAD endeavor have shown quite the opposite. One such effort showed that crude oil imports in 1971 would have been double the actual level in the absence of percentage depletion because petroleum reserves would have been 22.5 percent lower.[24] (Actually, this study probably understated the effect on production because it indicates a variability in the possible ratio of production to reserves which is wider than appears reasonable.) Another careful study in 1969 showed that, in the long run, a 33 percent reduction in price would mean a 55 percent reduction in discoveries.[25] Since the effective percentage depletion rate in excess of cost depletion was something over 15 percent after 1969, that study implied at least a 25 percent decrease in the level of reserves if percentage depletion had been eliminated [(55 ÷ 33) x 15 = 25].*

B. Does Percentage Depletion Encourage Production, Not Exploration?

A second criticism of the efficiency of percentage depletion as an incentive is that:

> Because depletion is given for oil production, it encourages drilling in known oil reserves and pumping from existing wells, not exploration for new resources. [S 11458]
>
> It is a depletion incentive, not an exploration incentive. [S 11454]

It must be emphasized that percentage depletion is a function of price—indeed, it is 22 percent of price. The fallacious logic in these statements could just as well be applied to price which is, of course, paid only for oil *produced.* Would anyone contend that a higher price

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*—The CONSAD study was an attempt by a consulting firm to quantify some of the economic consequences of the petroleum tax provisions. The study was commissioned by the Treasury during the Johnson Administration. It was cited in Treasury materials late in 1968, but it was never endorsed as an official Treasury document. It was published early in 1969 at the insistence of Members of Congress.

*—Both of these studies were evaluating the responsiveness of domestic exploration to changes in price in the $2.00-$3.50 range. Precise extrapolation of the results for price changes in the $5-$10 range would be of questionable validity. There would still be a positive relationship between price and exploration, but the magnitude could differ.

aids or production, not exploration, and does nothing to expand petroleum supplies? Exploration for exploration's sake will not fill many gasoline tanks. The results of exploration—producible oil and gas—are what count. What is needed is more domestic oil and gas production as an alternative for at least a portion of high-priced and insecure foreign imports. The way to achieve this is to stimulate exploration, discovery, development, and production. A higher price does all of this by rewarding the successful explorer. In a parallel way, percentage depletion also does all of this by rewarding the successful explorer.

The basic incentive of the oil industry to search for, develop, and produce oil and gas is the anticipation of an acceptable profit on exploration ventures after taking into account all costs including Federal income taxes. Each proposed exploration and development project is separately analyzed as to its potential after-tax return or profit on investment, based on its (uncertain) geological possibilities and price outlook as foreseen by the company. Those projects that meet the minimum profit criteria move forward—to success or failure depending on whether oil is really there. Those that fall below the minimum are shelved until changing circumstances warrant a new analysis.

The expected after-tax profit is, of course, affected by changes in both income and expense. Thus if the price of crude oil goes up (with no change in costs) thereby increasing expected profits, some prospects which failed the profit test at previous prices may become viable at the new level. By the same token, an increase in costs—such as increasing the Federal income tax through repeal of percentage depletion (with no increase in sales price)—would eliminate prospects which might otherwise have met the minimum profit criteria. It is simply incorrect to contend that:

> . . . the only time the depletion allowance has any bearing upon the economics of the oil industry is when oil is discovered. [S 11464]

The presence or absence of percentage depletion influences the original economic assessment on whether to drill or not to drill just as does the expected level of the price of oil and gas. Either lower price or lower percentage depletion means a lower level of exploration. And the fewer prospects drilled, the less oil and gas found.

C. Does Percentage Depletion Favor Low-Cost Oil?

The depletion allowance is also falsely accused of discouraging production of high-cost oil:

> . . . the tax benefit is the same for low-cost oil, which will always be produced, as for high-cost oil . . . the result is to divert scarce resources in the search for oil into low-cost drilling in known reserves, where the depletion payoff is the highest. [S 11458]

The logic of this position is dubious to start with: If the low-cost fuel will "always be produced" in any event, how could resources be diverted into it by tax policy? Moreover, resources have not been the limiting factor in the search for oil. Profitability was insufficient to attract adequate capital to maintain or expand wildcat drilling. In addition, insufficient offshore acreage was made available for large-scale exploratory drilling, e.g., in the Atlantic and the Gulf of Alaska. In any event, a company does not divert funds from exploration to development. In the long run, there can be no development without exploration. A company accepts exploration projects which are attractive. And it will naturally utilize any attractive opportunity for producing oil from known fields commensurate with maximum efficient rates of production.

Under such circumstances, the depletion allowance provides additional incentive to find, develop, or continue operation of marginal properties. For example, in a high-cost operation, the depletion allowance can more than double the producer's anticipated profits and render certain projects viable which would otherwise fail to meet minimum acceptable profit criteria. The following simplified example demonstrates how a high-cost project is benefited by percentage depletion:

	Without Depletion	With Depletion	Change in Profit
Uncontrolled Price	$10.00	$10.00	
Lifting Costs (including depreciation)	9.00	9.00	
Percentage Depletion (50% of net income)	0	.50	
Taxable Income	$ 1.00	$ .50	
Tax at Individual Marginal Rate of 70%	.70	.35	
Profit After Tax	$ .30	$ .65	+ $ .35 (+117%)

The profit after tax and the rate of return are 117 percent higher with depletion [.65 - .30 = .35; .35 ÷ .30 = 117%]. If the return on the project was not acceptable with a profit of only 30 cents, it might have been made acceptable by percentage depletion, which leads to a profit of 65 cents. Moreover, the allowance improves the prospective rate of return on additional investment in secondary or tertiary recovery projects and will render some such projects economically viable which would not otherwise meet the minimum profit criteria. If the limitation of percentage depletion to 50 percent of net income were removed or relaxed (say, to 100 percent, as proposed by the Committee on Ways and Means in 1974), the allowance would be even more useful in high-cost operations.

Thus, simple logic tells us that drilling, development, and production of oil and gas will be greater at any given price level *with* percentage depletion than without it. Experience with the 20 percent reduction in the depletion rate in 1969 tends to support that conclusion. In 1970, exploratory drilling in the United States dropped by 2,000 wells, a 21 percent decline from 1969—the largest year-to-year decline in history. The basic issue is whether we want to encourage domestic exploration and development during this period of scarcity, or whether we prefer to eliminate depletion, achieve a lower level of exploration and development activity, and suffer a greater dependence on foreign petroleum subject to the pricing and production decisions of foreign powers.

D. Does Percentage Depletion Cause Over-Drilling?

It is also argued that percentage depletion causes wasteful over-drilling of fields:

> . . . It stimulates overdrilling of existing fields. . . . overdrilling can damage overall production from an oil field . . . [S 11458]
>
> . . . it serves as an incentive to extract the oil as fast as possible and to overdrill and hasten depletion. [S 11454]

What is "overdrilling"? With higher prices (or price plus depletion), it may be economical to produce a reservoir faster, but that does not mean that oil will be wasted in the sense of diminishing total recovery from the field. When there is a shortage, obtaining oil sooner is certainly not undesirable so long as the producing rates do not damage the reservoir by exceeding the maximum efficient rates for the wells in the reservoir. This does not happen because the maximum efficient rate of production for each well is normally determined by state or Federal regulatory agencies based on the physical characteristics of the reservoir. To the extent that wasteful over-drilling and over-production of reservoirs may have occurred in the past, the basic cause was the "Rule of Capture." The oil beneath an individual's land could be legally drained off by any neighbor who could produce it from wells located on adjacent properties. It was diverse ownership of mineral properties and lack of effective unitization and conservation laws rather than percentage depletion that caused such over-drilling as may have occurred in past years.

Insofar as preference for drilling in existing fields is concerned, the fact that the industry has spent billions of dollars in the past few years in the hostile environment of the United States Arctic and offshore areas in the quest for new reserves belies the assertion that oil companies "prefer to spend money drilling in existing oil fields."

E. Is Percentage Depletion Wasted On Landowners?

The critics also contended that "most" of the depletion benefit goes either to royalty owners or to foreign oil producers:

> Most of the benefit of depletion goes to foreign operations and to people who cannot and do not produce oil. A . . . landowner has nothing to do with exploring and drilling for new oil. In 1968 . . . the CONSAD study . . . concluded that 42 percent of the depletion allowance goes to such nonoperating interests in domestic production or to foreign oil producers. [S 11476]

In the first place, 42 percent is not "most." Furthermore, over half of what CONSAD included in the 42 percent was the nominal depletion allowance on foreign oil. This was done despite the well-known fact that foreign depletion usually does not lead to a reduction in United States income taxes because the foreign tax rate is usually higher than the United States rate. Hence, the foreign tax credit offsets potential United States tax liability with or without depletion. (An important exception is in Canada, which also has a form of percentage depletion.) Anyone who has studied the question recognizes that virtually all of the benefit of the depletion allowance accrues to domestic operations. Quoting from the Report of the Committee on Ways and Means on H.R. 11462, the Oil and Gas Energy Tax Act of 1974: ". . . your committee is aware that the limitation on the amount of creditable foreign taxes takes away most of the advantage of the deduction for foreign percentage depletion. . . ." [p. 49]

The royalty owners' share of the total amount of percentage depletion taken annually cannot be very great. The average royalty in the United States is about 15 percent of gross revenue. And perhaps 35 percent of that goes to governments (Federal, state, and local) which, of course, take no depletion. Thus, it would appear that about 10 percent of the annual percentage depletion allowance goes to landowners.

It is also inaccurate to contend that royalty owners have "nothing to do" with the exploration process. They contribute significantly to the finding and developing of new reserves by making available for exploration the land under which the reserves are located. Moreover, the royalty owners' capital values are reduced as the oil is produced from their land; and they are entitled to an appropriate allowance in recognition of this fact. Also, it must not be thought that the landowners who retain their mineral rights simply "sit back and collect royalties" and "take no risks." They could sell their mineral rights *before* exploratory drilling, but they elect to share in the risks of exploration by contributing the pre-exploration capital value of their mineral rights to the exploratory process. Hence, they

are entitled to share in the success—if any—of the operation.

It was also contended that percentage depletion is dissipated to landowners in the form of lease bonus payments:

> Landowners get depletion on their royalty income, and they also get higher prices for leasing their land, because the availability of depletion encourages producers to bid the value up. [S 11458]

The essence of this argument is that if percentage depletion were eliminated, lease bonuses would decline accordingly. And the loss of percentage depletion would, in effect, have been shifted back to landowners—not forward to consumers via higher prices.

It is clear that loss of the operator's share of percentage depletion on *existing* properties could not be shifted back to the landowner. The lease acquisition cost is long since paid, and the per barrel royalty is contractually fixed. Thus, the contention in the quotation could only be an argument for eliminating percentage depletion on completely *new* properties, the exploration rights for which have not yet been acquired. It cannot justify retroactive elimination of percentage depletion on existing properties—including those acquired but not yet explored or developed.

In the case of future property acquisitions, bonuses would only be expected to be "bid up" significantly on those properties where producers expect the total economic costs of producing the underlying oil (costs of exploration plus development plus operation) to be well below the price they will receive. But if such attractive properties exist today in an increasing cost industry, why were they not acquired and drilled yesterday? There are thousands of separate and independent firms actively engaged in oil exploration in the United States. In this aggressively competitive environment it is hard to visualize how any substantial number of attractive "bargain" prospects could be simply lying around undrilled unless they have been kept off the market by government action.

In general, properties which are made economically attractive by higher prices in an increasing cost industry are only those (e.g., the deepwater offshore) which did not appear economic to any one of several thousand explorers at lower prices. Thus, there would be little or no windfall "bonus" revenue for the landowner to be able to command on such new properties as they become attractive. Economic theory would say that "bonuses" on these properties would be no more than required to compensate the landowner for entry onto his land. Indeed, "bonus" is a misnomer in the case of high-cost projects which become economic as price rises in an increasing cost industry. Initial payments are merely minimal lease acquisition costs, and they would not be reducible in the event of loss of percentage depletion.

How can it be, then, that there are domestic oil properties which have commanded significant bonuses in recent years? These were Federal offshore lands which had been held back from leasing either for environmental reasons or, perhaps, to maximize government revenues. To the extent that the per barrel bonuses on any remaining low-cost lands which were held back from exploration may exceed minimal lease acquisition costs, some part of lost percentage depletion could be shifted back to the landowner, that is, to the Federal Government (provided that percentage depletion had been eliminated before the acquisition bidding). The part of the depletion loss on such future properties which could be shifted cannot be computed because the amounts of the contemplated bonuses per barrel cannot be known today. All that is known is the bonus *per acre* on recent Federal lease sales, not the bonus *per barrel*. How many barrels per acre the winning geologists expected at the time of bidding is not a matter of public record. And recent sales may not foretell the future in any event.

What would shifting the loss of percentage depletion to the government accomplish? It would merely transfer funds from the bonus pocket of the Department of the Interior to the tax pocket of the United States Treasury. And that transfer would be of doubtful net benefit to the government, since the bonus is collected *before* exploratory drilling. The higher tax—like percentage depletion—would only materialize some years later in the event of success.

Can substitution of uncertain future tax revenues for initial certain bonuses on whatever low-cost properties may remain on the Federal shelf be a valid reason for depriving other new properties of percentage depletion? Surely not.

F. Is Percentage Depletion Inferior To A Cash Subsidy?

The suggestion was advanced during the debate that a direct cash subsidy to exploration would be preferable to the percentage depletion allowance:

> Benefits which are proportional to the cost of exploration or development . . . are more effective in stimulating the actual expenditures necessary for additional exploration and development . . . [S 11476]

What is our objective? Is it to drill holes in the ground or to find oil and gas? Obviously, we want more oil and gas. However, a cash subsidy to all exploration rewards both success and failure. A dry hole cash subsidy wastes the taxpayers' money as compared to an incentive such as percentage depletion. There may be a place

for supplemental new incentives which are tied to effort, but percentage depletion is a proved mechanism which appropriately rewards the productive venture.

G. Does Percentage Depletion Discourage Alternative Energy Sources?

The allegation was made during the debate that the depletion allowance discourages development of alternative energy sources:

> . . . depletion is a highly discriminatory incentive for oil, to the disadvantage of other energy sources. [S 11458]
>
> . . . If oil is produced through an alternative process, such as extraction of oil from shale or liquefaction of coal, the percentage depletion deduction available is much less. This encourages continuing exploitation of a scarce resource as opposed to development of the alternative resource which will obviously be needed in the future . . . [S 11476]

This argument proceeds from a correct premise to an incorrect conclusion. In shale oil extraction, for example, percentage depletion is computed on the value of the "kerogen," that is, the raw oil-type material after it has been separated from the shale. Then, it is necessary to upgrade the kerogen by a refining process to make it into a synthetic crude oil comparable to conventional crude oil from the well. Thus, percentage depletion applies to the full value of conventional crude but to only part of the value of the synthetic crude.

The easy way to solve this problem is to put the computation of allowable percentage depletion for shale at that point in the process where it becomes a synthetic crude oil comparable to conventional crude. In order to equate the incentives, it is not necessary to destroy the incentive on conventional crude oil—a move clearly counter to the national interest in achieving more domestic energy, conventional or otherwise.

Moreover, elimination of percentage depletion on conventional oil and gas would do nothing to improve the rate of return on alternative sources and, hence, to encourage accelerated development of those sources. Making one domestic energy source less attractive does not make another domestic source more attractive. It makes domestic sources, in *total*, less attractive relative to imports. Alternative sources have been slow to develop because their higher costs have required selling prices far in excess of the equivalent price of conventional crude oil or gas in order to generate an acceptable rate of return. That rate of return would not rise because the rate of return on conventional oil and gas would fall with higher taxes on conventional sources.

Today, the price available for alternative energy sources—as well as new conventional crude oil—is set by the world price of crude. That price has risen to levels which should stimulate investment in at least some alternative energy sources.* Thus, there is no point in attempting to make conventional oil and gas exploration less attractive in a vain attempt to stimulate synthetics. The Nation needs a maximum effort—which has begun—to find and develop conventional energy sources for many years until the alternatives can make a significant contribution to our energy needs. Raising taxes on conventional oil and gas cannot help that effort.

H. Has Percentage Depletion Promoted Energy Independence?

One of the numerous rhetorical questions raised during the debate observed that if depletion were such a fine exploration incentive, why did exploration and the number of independent operators decline so sharply after 1956:

> . . . if . . . . . this depletion allowance was so beneficial . . . we would not be dependent on foreign sources . . . [S 11457]
>
> . . . the oil depletion allowance is not worth a lot because the oilmen have had it and they have gone out of business anyway. [S 11459]

This is said to be "the best argument for doing away with the oil depletion allowance." The fact is that without percentage depletion and import restrictions the domestic industry would have suffered substantially more than it did. And the impact of the recent Arab oil embargo would have been much worse.

We have seen that the sharpest decline in drilling was experienced when depletion was reduced in 1969. It is frequently overlooked that the political and policy climates affect investment. These climates must be ones in which all investors, large and small, have a reasonable degree of certainty that the ground rules regarding such basics as prices, taxation, and profits will not be altered drastically. The primary motivation for development of additional supplies for any commodity in free enterprise economies is the prospect of making reasonable profits on each new project. Without this prospect, there will be little or no new competition because there will be little or no investment by firms of any size and little or no new entry into the industry.

Percentage depletion allowances have served the Nation well by encouraging widespread new investment and providing sources of funds for a large United States oil and gas industry made up of thousands of

*—See section VI-E below.

firms and individuals. However, starting with the 1950's, the potential financial contribution of the depletion allowance has been partially offset through price controls. Prices and profits of oil were controlled indirectly to 1971 through jaw-boning and the controlled importation of low-priced oil. In addition, prices and profits of interstate natural gas sales have been controlled by the Federal Power Commission since 1954. In August 1971, the Federal Government started limiting prices and profits through direct controls on all commodities. Although direct controls have been removed from almost all other commodities, they still apply to oil and gas.

These government price controls on oil and gas since the 1950's have diminished the attractiveness of the oil industry. As a result, domestic petroleum exploration and development expenditures (in constant 1970 dollars) declined from $7.2 billion in the early and mid-1950's to under $4.2 billion in 1971.

As the energy industry came under more severe price limitations, inflation pushed its costs up. The net effect of various negative factors including inflation and price and profit controls was to depress exploratory drilling in the United States, encourage imports of oil, and dampen investment. And counterproductive political action has not ceased. As was noted above, a number of proposals to limit the profits of energy companies and investors have been made in the past year. It is not surprising that exploration declined in the United States after 1956 despite percentage depletion and oil import controls. The political climate could only have discouraged investment.

The value of depletion as an incentive was also questioned in view of the current decline in production in the face of higher prices and correspondingly higher amounts of percentage depletion:

> . . . production in this country has actually dropped by 2 percent . . . One wonders, if higher prices automatically bring forth more production, where it is. [S 11467]

Rome wasn't built in a day. It will take several years for the effects of the current accelerating growth in exploration, development, and workover activity now under way to be reflected in production rates. Active rotary rigs in the first half of 1974 were up more than 25 percent over the number active in the first half of 1973. And, according to the Chase Bank, domestic petroleum capital expenditures by 30 companies in the first half of 1974 were up by 122 percent over the first half of 1973. Spending by these companies was at an annual rate of $13 billion about the level of their worldwide profits.

Thus, the industry is clearly responding as quickly as it can to the prospect of improved after-tax profits through higher prices and continuation of the depletion allowance. Just as production in future years will reflect today's increased activity, production today reflects curtailed activity in the past. The recent sharp increase in activity should not mislead us however. It should be remembered that substantially greater levels of investment are necessary even if we are just to maintain the current ratio of domestic oil to imports. And we have seen that the industry's past investment rate must be increased several-fold to some $36 billion annually (in 1974 prices) to achieve a reasonable degree of energy independence.

VI

PERCENTAGE DEPLETION CONTINUES TO BE AN EFFICIENT AND EFFECTIVE INCENTIVE

The distinguished principal spokesman for the proponents of eliminating percentage depletion (Senator Humphrey) contended that:

> . . . there might have been a time when one could make a strong argument in this body for the percentage depletion allowance, whether it be 27.5 percent or 22 percent. The argument could be made then on the basis that the profitability of the industry required it, or the lack of profitability to be more exact. Second, one could make the argument on the basis that cost was so high relative to price that they needed a subsidy.
>
> But that argument cannot be made today . . . the profitability in this industry is clear and inevitable, and the price they get for the product is a high price. That is the incentive we need, the incentive for further exploration. [S 11463]

Thus with higher prices and profits, the industry is said no longer to need percentage depletion.

A. Have Higher Prices Substituted For Percentage Depletion?

A misconception of the additive incentive effect of percentage depletion appeared continuously throughout the Senate debate. For example, one Senator cited Professor Otto Eckstein (of Harvard University), who contends that the depletion allowance is obsolete because the increased

> market price of oil provides a far stronger incentive to the development of additional reserves than any tax incentive such as the depletion allowance could provide. [S 11488]

Arithmetically, it is quite true that a $7.50 increase in the price of new oil from $3.50 to $11 is a more powerful incentive than deducting 71 cents (22 percent of the $3.50 price) from taxable income—$7.50 is always better than 71 cents. But, it is also true that eliminating percentage depletion on the $11 would have the same type of effect as reducing the higher price and hence reducing the effectiveness of the price increase. (The magnitude of the price increase required to offset loss of depletion is discussed in Section VIII below; for a taxpayer in a 48 percent marginal bracket, a $2.23 increase in the $11 price would be required to offset the loss of 22 percent depletion.) Moreover, a given price increase with percentage depletion is more effective than the same increase without depletion—since the company receives the percentage depletion allowance on the increase in price as well as on the base price. Conversely, it loses the depletion on the amount by which a price is reduced.

From the point of view of the producer, eliminating percentage depletion at any given level of price has the same type of effect as cutting the price. And that can only mean less petroleum exploration and development. As we have seen, more prospects become economically attractive with a higher price—especially those prospects in costly frontier areas such as the North Slope of Alaska, the deepwater offshore, and very deep geological horizons onshore. And fewer prospects are attractive with a lower price. Hence, a price rollback would mean less exploration (and less development). A reduction in percentage depletion would have the same sort of effect—unless there were a compensating price increase. Actually, a 22 percent reduction in price with depletion in effect would be somewhat more serious than the elimination of 22 percent depletion because the effect of the price reduction would be compounded by loss of part of the depletion formerly received.*

In short, the incentive effect of percentage depletion is additive to the effect of price. At any given level of price, there will be more exploration with percentage depletion than without.

B. Could A Higher Price For New Oil Offset Elimination Of Percentage Depletion On New Oil?

Since the price of new oil is not controlled and there are no import restraints, the price of new domestic crude oil now reflects world crude oil prices. Hence, in the absence of offsetting legislation to limit imports or raise their delivered cost, an increase in taxes on domestic new oil probably could not be passed on to consumers:

> . . . The price of already decontrolled domestic oil surely will not be affected by the repeal, because this price is determined by the highest level set by the OPEC cartel—now about $10.50 for oil sold directly by the OPEC governments. [S 11471]

A tax increase levied by one country on a freely traded commodity cannot be passed on by producers domiciled in that country because the higher tax would not affect the costs of foreign-owned competitors. That is a basic principle of international economics.

*—This ignores cost depletion and the 50 percent of net income limitation.

If Congress were to levy a tariff on imported oil equal to the before-tax value of percentage depletion on new oil, the price of new domestic oil could rise *in lieu* of percentage depletion. Alternatively, import quotas could be re-imposed to insulate domestic prices from world prices. Otherwise, elimination of percentage depletion would mean higher tax costs on new oil and, accordingly, lower profits and less exploration. We have seen that some of the effect might be absorbed in lower lease acquisition bonus payments on any low-cost properties that have not yet been leased by the Federal Government. (That would be money out of the government's bonus pocket and into its tax pocket.) But on high-cost properties which bear only nominal land acquisition fees, the incentive effect of depletion would be lost without import protection. Exploration would, therefore, decline.

The proposal to eliminate percentage depletion on new oil with the thought that the tax increase would not be passed on to consumers is actually *anti*-consumer. And it is contrary to the agreed national interest in increased domestic output of oil and gas. The proposal to eliminate percentage depletion has deceptive appeal: It would raise oil company taxes so that individual income taxes could be reduced (by about $15 per person per year); but it would hold oil prices constant so that individuals' gasoline and oil bills would not rise. In effect, the proponents promise consumers a free lunch—the same amount of oil at the same price with a lower income tax bill. However, it is crystal clear that elimination of percentage depletion would mean a lower level of indigenous petroleum supply in the absence of correspondingly higher fuel prices. Thus, the proposal is incompatible with the generally agreed policy goal of decreased dependence on costly and insecure foreign energy sources.

C. Could Market Forces Operate To Offset Elimination Of Percentage Depletion On Old Oil?

During the debate, Senator Humphrey made an eloquent plea for market forces:

> The Senator from Minnesota believes in the profit system; he believes in the capitalistic system. He believes they ought to have a chance to make a fair return on their investment. [S 11457]
>
> . . . when the price is up . . . [t]hat is the incentive. That is the incentive for the farmer to produce wheat; that is the incentive for a factory to produce a car: price and profit . . . Let the market forces work. And the market forces are at work. What is the market force? Price. [S 11460]

These remarks would seem logically to require that any proposal to eliminate percentage depletion apply only when petroleum market forces are permitted to operate. However, that requirement is not met today in two important petroleum categories: interstate natural gas and so-called "old" crude oil. Those prices are rigidly controlled by the Government of the United States. Market forces are suppressed. How, then, can Senator Humphrey and his colleagues justify a petroleum tax increase?

They did, in fact, recognize the impact of the suppression of market forces in the case of regulated natural gas. Their proposal would postpone the date of elimination of percentage depletion on such gas until the end of 1975 in order to "give producers time to obtain price adjustments from the Federal Power Commission." [S 11452]

However, the sponsors of the proposal would deny any such treatment to "old" crude oil:

> Some people may propose to make a similar exception for price-controlled oil. The situation for oil, however, is very different. Such an exception is completely unjustified because price ceilings on oil are not even remotely related to cost. [S 11456]

This is *not* a free market proposal—even for interstate gas. In fact, the proposal envisions continuation of price controls on both interstate gas and old oil. It does not require relaxation of gas price controls to compensate for the loss of percentage depletion. It merely grants producers a year to try to persuade the Federal Power Commission to allow a pass-through. And the proponents reject outright any pass-through of the loss of percentage depletion on old oil. At one point, Senator Humphrey admitted the desirability of a pass-through on old oil, but he quickly retracted this sound position when prompted by a colleague. [S 11475]

Thus, contrary to the eloquent words of their distinguished spokesman, the sponsors of the proposal do not propose to let market forces operate. They demand, instead, continued government suppression of market forces. It is incredible to witness the persistence of the notion that a better society lies in the direction of giving to the Federal Government, rather than consumers, the power to determine what goods and services are produced and which members of society will be permitted to get more or less of what is produced.

Price controls by definition mean that the competitive free enterprise, marketplace system is replaced by government commands and orders in those sectors which are affected by the price controls. Supply and demand forces, made up of the sum of billions of individual decisions of savers, consumers, businesses, and workers, cannot operate when prices are controlled below market clearing levels by commands grounded in the police powers of the government. Government cannot repeal the Law of Supply and Demand by imposing price controls.

Where there is a free marketplace, the people determine among themselves what is to be produced, whether more or less of this item or more or less of that service. Through the marketplace, each person is free to determine within his means whether he prefers more of one thing and less of another, and spend his money accordingly.

Under any system of price ceilings, the government must make these decisions. There is not enough of the price-controlled item to equal the quantity people want and would be willing to pay for at that price, because price ceilings have held prices below market clearing levels and created an artificial shortage which would not exist with market forces operating. Yet somehow the price-controlled item must be allocated. Who will be allowed to have it at the advantageous, controlled price?

There is only one possible answer. The government will allocate the supplies and the shortage. The call for price controls, with their inevitable accompanying allocation controls, is a call for a major transfer of economic power from the people to the Federal Government.

One need not look only to other countries to see the effects of an established price control-allocation system. Here at home we have the example of Federal regulation of natural gas prices. Lower prices have great political appeal. This has been no less true for natural gas than it would be for oil and oil products. Estimates of the prices required to bring forth new supplies are difficult to make and strain the predictive capacity even of those government experts most convinced of their superiority over the decision-making abilities of a free market. Many critics believe, of course, that industry estimates are gravely suspect of being self-serving and are to be dismissed or appropriately discounted.

Thus, it is no accident that after two decades under a natural gas regulation scheme which started with plentiful supplies in an energy self-sufficient country, we have rapidly depleting gas supplies; wholly insufficient to meet demands, and an energy-deficient country. Some citizens and business firms are permitted to buy and use cheap natural gas while their neighbors and competitors are less fortunate, for there is nowhere near enough gas to go around at the controlled price. Low natural gas prices affected the price levels of competing fuels, particularly oil and coal, and put a severe limitation on the level of investment effort which could be mounted to bring on new supplies of those fuels. It may be anticipated that in similar fashion, oil price controls will have effects far beyond the petroleum industry if they long persist. Allocation problems already exist within the industry because of the dual price system for old and new crude oil. Holding price below the market always causes problems of arbitrarily taking benefits from one group and conferring them on another, usually with capricious and counterproductive results.

D. Does OPEC Pricing Require Reimposition Of Price Controls On New Oil?

The proponents of eliminating percentage depletion almost seemed to be suggesting a reimposition of controls on *new* oil because they believe that new oil prices are not now competitive prices, as in agriculture:

> . . . the prices of uncontrolled oil are not exactly competitive prices. They are cartel prices . . . The OPEC countries just set the price. It is not related to the cost. [S 11464]

It is not in the national interest to contend that a market price for United States oil is unjustified because it reflects an international price which exceeds the before-tax cost of producing oil abroad. Since the cost of producing oil in the Middle East is by far the lowest in the world, diminished dependence on oil from that source will perforce mean higher costs. If the world price were equal to the before-tax cost in the Middle East, the delivered price of foreign oil in the United States would be some $2 per barrel as it once was—perhaps less. No one would now seriously contend that such a price could stimulate sufficient domestic energy development for United States energy independence.

Furthermore, there have been a number of public indications from OPEC leaders that they intend to key their prices to costs of alternative energy sources or frontier area production of conventional oil. For example, Prince Sa'ud al-Faisal, Deputy Minister of Petroleum and Mineral Resources of Saudi Arabia stated:

> . . . I believe that the most effective and simplest way of preventing the misuse of oil is to let oil prices reach their true level so that it will only be put to vital uses. I believe that this price should be derived from the cost of alternative sources of energy. The main complaint against the new level of oil prices was the abruptness with which the increase occurred, spanning a short period of time, and this is understandable. But the price of oil must rise sooner or later to its true level and this, in the final analysis, is not harmful to the consumer but is in his best interest.[26]

Prices set by OPEC at the level of United States replacement costs are at the level which economic theory tells us free market forces would ultimately set.

Regardless of how the world price is set, any domestic oil that is available at or below that price—or, indeed, somewhat *above* it—is a bargain. Domestic oil is secure. It creates no balance-of-payments problems. And the tax and royalty component of its cost is simply

a transfer of money within the United States economy; it is not a real resource cost. In contrast, the tax and royalty component of a barrel of foreign oil (85 or 90 percent of its total cost) *is* a real resource cost to the United States. It gives the foreign government a call on American goods and services or a share in American wealth. Obtaining secure domestic oil at the world price is in the national interest regardless of the relationship of that price to foreign costs.

E. Are Higher Prices Cost-Based?

It is incorrect to contend that higher current petroleum prices "are not related to the cost of production." [S 11461] Higher prices reflect higher replacement costs. In the extractive industries, higher-cost new prospects must be sought out in frontier areas as time passes because firms tap the lower-cost ones first. Since the exploratory process is uncertain, some prospects which were thought in past years to be poor may turn out to be relatively good (or *vice versa*) when they are ultimately tested. But it is the *expected* attractiveness which matters in deciding which prospects to drill or not to drill.

In order to achieve energy independence, the industry must turn to higher-cost projects:

> . . . The lower investment and operating costs of fields discovered and developed years ago are irrelevant to what it will cost to bring on new supplies. New supplies will cost much more in terms of the real resources of men, materials, and invested capital required to bring them into production. Hence, expansion requires increasing prices and profits in order to maintain acceptable rates of return on the new, higher-cost investments . . . The petroleum industry is now . . . mov[ing] to exploration in the Arctic and deepwater offshore areas, as well as to the exploitation of new energy sources requiring unproved and costly technology. Such increased uncertainty requires increased rates of return in order to attract capital.[27]

Replacement costs are higher; hence, prices must be higher. Higher prices *are* cost-based—*replacement* cost-based.

One might contend that while a higher price is required to compensate investors for the higher cost of new production in an increasing cost industry, there is no reason to let producers earn that price on older, low-cost production. That production is already in place, and a higher price for it would allegedly accomplish nothing more than enrichment of the producer:

> I do not deny that the cost of drilling wells has gone up . . . [b]ut . . . [m]uch of the increase in domestic prices . . . is on old oil wells already drilled. Prices went up, but the costs of production or drilling those wells were incurred years before. [S 11464]

What this implies is that oil and gas producers are only entitled to recoup the dollars they originally spent and a modest profit thereon, regardless of the erosion of the buying power of these dollars by inflation—and regardless of current replacement costs and competing market prices.

The price of wheat has gone up dramatically, but no one has suggested dual pricing for farmers. That would require a lower price for "old" wheat produced from lands which were profitable at the former price and a higher price for new production from less productive acreage. The wheat farmer is entitled to receive the market value of his crop—and does—even if this means a substantially higher rate of return on low-cost acreage purchased and brought into production years ago than on new acreage currently being cultivated. However, the oil producer is said to be entitled to receive only a low price on production from old, lower-cost acreage despite inflation and high replacement costs of operating in frontier areas. What justification is there for singling out oil producers and denying them the higher profits which flow from past investments as market prices rise?

It must not be thought that higher profits on "old" oil render no useful function. They are a source of funds for reinvestment in exploration and development. And the industry should be spending more than the profits from old oil if the Nation is to achieve energy independence. Increased internal generation of funds is essential in an industry where the results of investments are so uncertain. Some critics assert that the industry should borrow more:

> . . . the oil industry has the lowest debt-equity ratio in manufacturing. It has a tremendous untapped borrowing capacity. [S 11461]

That is simply incorrect. In the past, the low debt-equity ratio has reflected the uncertainty of the exploration stage of the business. Today, new refining investment has also become significantly more risky because of the uncertainty of flow of foreign crude supplies. The industry borrows about to the extent of its credit-carrying capacity. Moreover, a high rate of return on the existing business is needed for the companies to be able to attract new debt capital to supplement internally generated funds. Bankers are most reluctant to lend only on the strength of great expectations of success in new exploration ventures. They demand concrete evidence of existing accomplishment. The view of the Chase Manhattan Bank is that raising the money needed for energy independence

> . . . will represent an enormous task. Part of it can be borrowed but at least three-fourths will have to be generated internally from profits and capital recovery. Nearly half must be obtained from profits alone . . .[28]

Not only do higher profits on "old" oil render a useful economic function, they are also justified in view of general price inflation—entirely apart from any consideration of higher replacement costs of operating in frontier areas. The present controlled "old" oil price of about $5.25 per barrel does not bring old oil prices in line with the general inflation of the past quarter century. In the third quarter of 1974, the implicit price deflator for the Gross National Product had increased by 116 percent from the 1948 average. At $5.25, "old" oil was up 102 percent from the 1948 average price of $2.60.

Price controls and restricted profits on old oil also have a perverse effect on efforts to improve the productive capacity of existing fields. A secondary recovery project which increases production of a new field earns new oil prices on every barrel of production in excess of the 1972 level, plus the new oil price on a matching bonus barrel. But what if the secondary recovery project does not lead to higher field production than in 1972? This could easily happen in fields where the productive capacity is naturally declining. Secondary recovery may only arrest the decline—but that is certainly an accomplishment which would promote energy independence because there would be more oil than otherwise. Yet controls on "old" oil deprive this sort of project of the market price. Restoration of market forces would eliminate this problem.

Finally, price ceilings on old oil depress the price of a composite barrel of old and new domestic crude oil and, hence, artificially stimulate oil consumption at a time when we should be conserving.

F. Are Higher Prices High Enough For Energy Independence?

During the Senate debate, the national need for petroleum exploration incentives was repeatedly recognized by the proponents of eliminating percentage depletion. But the need for the extra depletion incentive on top of an $11 price for new oil was questioned:

> . . . this kind of profit permits the exploration and development that we need, and if it does not, there is something wrong with the oil industry. [S 11469]
>
> We all agree that the domestic oil industry needs incentives to drill, to build refineries, to build pipelines, to expand production of energy for this nation's needs. I know of no one who disagrees with that.
>
> . . . The question is, when is enough enough? [S 11466]

The present levels of oil prices and profits do permit some of the exploration and development that we need—drilling is up 25 percent in a year, and capital spending has doubled. But do they permit *all* that we need? How much incentive is enough?

Senator Humphrey said that "The more we can be dependent on our own resources, the better." From that policy position, it follows that percentage depletion is required at the present crude price unless we can be confident that the $11 price *without* percentage depletion would give the country the amount of domestic oil supply it will consume at that price.

In order to apply this test, it is first necessary to forecast domestic production and consumption at prices of $11 and about $9 over a period of years sufficiently long to permit full reaction to price change (eliminating percentage depletion would be equivalent to rolling the price back by about $2 per barrel). Any such forecasts of supply and demand are most difficult to make with precision because of:

(1) the geological uncertainty inherent in the petroleum exploration process;
(2) the uncertainty of the effect of higher crude oil prices on petroleum consumption; and
(3) the long time periods required to develop new petroleum supplies and effect a full response of demand to higher prices.

This is not to say that long-term petroleum supply and demand forecasting is a useless exercise. Rather, the results should be viewed with caution and given in ranges rather than as single numbers which imply undue precision.

The United States has substantial untested acreage which is highly prospective for oil and gas, especially offshore on all three coasts and on the North Slope of Alaska. But we shall not *know* how much oil is actually there until the prospects are tested by the drill bit and developed. And that process can take a good many years, especially if environmental protests are carried to the courts. When the first North Slope oil moves to market, almost ten years will have elapsed since its discovery.

Furthermore, we have no precisely comparable historical experience on which to base predictions of the precise effect of large increases in domestic crude oil prices on consumption of petroleum products. Price changes over the past quarter century have been small—35 cents per barrel at most. Indeed, crude oil prices were about constant for a decade and a half while other prices rose. In 1974, however, uncontrolled domestic crude oil prices have risen by a much larger amount following the world price rise. One can safely say that such a price increase will decrease consumption, but by how much? Also, as with the supply response to higher prices, a full demand response will take many years. For example, higher gasoline prices stimulate purchases of more efficient automobiles; but

consumers cannot be expected to junk their investments in the 1972-74 models overnight.

The first forecasting problem, then, is to estimate a range of uncertain supply and demand responses to price changes as those responses will materialize a decade or so in the future. However, even if this can be done within reasonable ranges in which one can have some confidence, it will still be almost impossible to predict the level of imports required to fill the supply-demand gap, if any. Consider the following example of hypothetical supply and demand forecast ranges at a given price in a future year (assuming any level within the range is equally likely):

	Million Barrels per Day
Domestic Supply Forecast	15 plus or minus 20%, or 18 to 12
Domestic Demand Forecast	20 plus or minus 10%, or 18 to 22
Required Imports	5 plus or minus 100%, or 0 to 10

At the mid-points of each range (20 demand and 15 supply), required imports would be five million barrels per day—or 25 percent import dependency. However, required imports could be anywhere from zero to 10 million barrels per day—a dependency range of zero to 45 percent.

Moreover, the price is uncertain; forecasting it requires an economic and geopolitical assessment of future OPEC pricing policies. Hence, there would be comparable ranges for each of a number of feasible world crude oil prices. In short, the level of import dependency is highly uncertain. We can say with confidence that higher prices will mean more domestic production and less domestic consumption. How much more is arguable but predictable within ranges. Predictions of the difference between those ranges are necessarily extremely uncertain.

When the Nation's security is involved, it is clearly better to err on the side of developing somewhat too much oil than to eliminate percentage depletion and, effectively, roll back the price by about $2 per barrel. The consequence of a surplus would be that the United States would have some oil to sell to Europe and Japan and, accordingly, to help the consuming countries' joint balance-of-payments problem *vis a vis* OPEC. The consequence of eliminating percentage depletion could be an even greater American dependence on OPEC oil. There is really no choice between these uncertainties: the United States must opt for more domestic supply. It needs the new prices *and* percentage depletion in order to assure itself of adequate supplies of oil and gas.

Might it be possible to fill the domestic independence gap by using synthetics as well as conventional oil and gas? A rapid development program for synthetics is essential—as American Petroleum Institute witnesses told the Congress in 1970:

> . . . it is imperative that we begin now [1970] to formulate a framework of national policy for the orderly development of synthetic resources. The long lead times required dictate that a carefully planned program be initiated now if those sources are to make a significant contribution to our energy needs in the 1980's.[31]

Four years have passed, but only one new synthetics plant has been started—and that one in Canada. The long lead times for plant construction and the technological problems not fully solved make it most unlikely that it will be physically possible to produce the huge needed quantitites of synthetics by 1985—even with diligent development.

In any event, synthetic liquid fuels will be no bargain. For example, Cameron Engineers, Inc., an eminent firm experienced in evaluating shale oil processing, recently stated:

> Thus for a 50,000 bbl./day pioneer plant, operating on 30 GPT [gallons per ton] shale the crude price today should be about $10/bbl. *in terms of constant 1974 dollars.* Further increases would thus be required to compensate for future inflation during the construction and operation period.[32]

This required price of $10 per barrel is for a synthetic crude comparable with conventional crudes delivered to refining centers. The estimate is an adjustment of the results of a National Petroleum Council study which computed a crude parity (at the plant gate) of $6.35 per barrel in 1970 dollars. The NPC study assumed a large plant operating on high grade ore with no startup problems. The Cameron estimate updates the costs to 1974 dollars and allows for the plant size and ore quality currently being considered.

Colony Development Operation recently announced indefinite postponement of its commercial shale plant because inflation had caused its estimated construction costs to increase about 40 percent, from $450 million to $800 million. Robert O. Anderson, Chairman of ARCO, which is a member of Colony Development stated recently that the price of oil would have to increase to about $15 per barrel before this plant would be economic.[33] Bob R. Dorsey of Gulf stated recently that Gulf's estimated costs for its joint venture with Standard of Indiana had also increased. He noted that instead of an oil price of $8 to $10 per barrel Gulf was now estimating that the price of oil would have to be in the range of $10 to $12 per barrel before this project could be economical.[34] It is clear from these cost estimates that there must be assurances that oil prices will continue at present levels or even increase before oil shale development can make any substantial contribution to domestic energy supplies.

Another source of synthetic liquid fuels could be coal. A recent statement by Exxon Research and Engineering Company observed that:

> Based on the current high cost for imported natural crude, there are now substantial driving forces to complete the development and commercial demonstration of coal liquefaction technology as soon as practical.[35]

The Exxon cost estimate for direct liquefaction of coal is roughly $10 per barrel of synthetic oil in 1973 dollars. An alternative route to synthetic liquids from coal would be to gasify the coal and then liquefy the gas. That could cost another $2 to $5 per barrel.

"When is enough enough?" Enough is no less than present new oil prices *with percentage depletion.*

VII

PERCENTAGE DEPLETION AND COMPETITION

It has been argued that percentage depletion for large integrated oil companies gives them an advantage over non-integrated refiners and should be eliminated for large integrated companies to improve competition in refining and marketing:

> . . . depletion encourages oil producers to keep their oil prices high, at the expense of independent refiners and manufacturers of petroleum products, whose profit margins are thereby squeezed. . . . In effect, the integrated firms are selling crude oil to themselves at artificially high prices and thereby driving independent refiners . . . out of business. [S 11458]

On the contrary, integrated companies have neither the ability nor the incentive to attempt any such shifting. And they would lose, not gain, after-tax dollars if they were successful in any attempt to shift income from marketing and refining to production. What would happen to profits? The answer is that profits would decrease. The integrated companies' lack of market power is confirmed by the facts, which show that over the past decade independent refiners have improved their market share.

A. Competition In Refining

The charge implies that at any level of market prices for products, integrated companies allegedly raise crude oil prices artificially, thus squeezing refining profits. This ignores the facts.

First, the integrated companies cannot raise prices individually. Integrated companies produce only about three-fifths of domestic crude oil production and thus could not control the market. The largest company has only about 10 percent. In an industry characterized by low concentration and free entry—as in the oil producing business—companies have no discretion as to where they take their profits.

Second, neither the Internal Revenue Service nor state tax authorities will permit companies to adjust their internal crude oil prices arbitrarily in order to minimize taxes. Such internal prices must be related to market prices.

Third, the integrated companies would lose money on a price increase designed to increase the depletion allowance and decrease taxes. For a company whose gross production equals its refinery runs, the benefits from lower Federal income taxes would be more than offset by increases in landowner's royalty and state severance taxes. The effect is even more pronounced in situations where the integrated producer is unable to satisfy the requirements of his refineries from his own gross production and must purchase part of his requirement from outsiders. To the extent that is the case, the increase represents an additional net direct increase in costs.

The accompanying schedules in Exhibit C reflect the effect of crude oil price increases to an integrated petroleum company. For a completely integrated company whose gross production equals its refinery runs, Case I shows that profits are reduced by about 2 percent of the amount of the increase. Case I assumes that the integrated company purchases no oil beyond its gross production. In fact, the gross production of 20 of the largest oil companies is about 75 percent of their runs of domestic crude. As a result, the average large integrated company must purchase about 25 percent of its crude oil from outsiders. Case II reflects this purchase assumption, which results in a reduction in profits equal to about 15 percent of the amount of the increase. A further adverse effect on profits results if the tax on tax preferences is applicable. In that event, as is shown in Case III, profits are additionally impaired by another 4 percent of the amount of any crude increase.

Consistent with these computations, the actual facts show that independent refiners have improved their market share in recent years. According to the Office of Oil and Gas, Department of the Interior, refinery capacity in the United States increased from 9.6 million barrels per day in 1960 to 12.3 million barrels per day in 1970, a net increase of 2.7 million barrels per day—or about 28 percent. The Treasury Department has calculated that in the area east of the Rockies, independents competed so successfully that they gained about 1 percent of refinery capacity between 1960 and 1970.[36] On the West Coast, the independents gained 2.5 percent of refinery capacity from 1964 to 1970.

One would assume that if profitability were concentrated in production, then the large companies with the funds and experience in all facets of the oil industry would invest primarily in *production*. The facts show that while most large companies invest heavily in all stages of the industry, they actually have a larger share of the *downstream* end of the business—transportation, refining, and marketing. As previously listed, the average degree of integration on gross production is about 75 percent. After deducting royalty oil due to others, the level of integration would be substantially less—about 64 percent.

Some integration in the producing side of the business is desirable, not because of high profits there, but

EXHIBIT C—CASE I

Effect Of An Increase Of $1 In Price Of Crude Oil On A
Company That Produces All Its Crude Oil Requirements

Additional royalty paid to the landowner (based on national average royalty interest of 15%)	$ .1500
Additional severance and ad valorem tax on the 85% working interest (based on estimated national average taxes of 8%)	.0680
Total	$ .2180
Reduction in Federal income tax @48% attributable to the above items	.1046
Net cost of royalty & severance tax	$ .1134
Less reduction in Federal income tax attributable to increase in percentage depletion @22% of 85% x 48%	.0898
Net cost of increasing the price of crude oil, assuming the tax on tax preferences is not applicable	$ .0236

EXHIBIT C CONTINUED—CASE II

Effect Of An Increase Of $1 In Price of Crude Oil On A
Company That Produces 75 Percent Of Its Crude Oil Requirements

Additional royalty paid to landowner (15% of .75)	$ .1125
Additional severance and ad valorem tax (8% of .75 less .1125)	.0510
Additional cost of crude purchased from other producers (1.00 less .75)	.2500
Total	$ .4135
Reduction in Federal income tax @48% attributable to the above items	.1985
Net cost of royalty, severance tax, and outside purchases	$ .2150
Less reduction in Federal income taxes attributable to increase in percentage depletion (48% of 22% of .75 less .1125)	.0673
Net cost of increasing the price of crude oil, assuming the tax on tax preferences is not applicable	$ .1477

EXHIBIT C CONTINUED—CASE III

Effect Of An Increase Of $1 In Price Of Crude Oil
Assuming The Tax On Tax Preferences Applies

	Company With No Outside Purchases	Company That Purchases 25% of its Crude Requirements
Increase in Preference Items		
(Increase in Depletion on Own Produced Oil)	$ .1870	$ .1403
Add Reduction in Income Tax:		
Due to Additional Royalty, Severance and Outside Purchases	.1046	.1985
Due to Additional Depletion	.0898	.0673
Increase in Preference Tax Base	$ .3814	$ .4061
Preference Tax at 10%	$ .0381	$ .0406
Net Cost of Increasing the Price of Crude Oil per Cases I and II	.0236	.1477
Total Increase in Cost When the Tax on Tax Preferences is Applicable	$ .0617	$ .1883

because of normal business reasons for vertically integrating. The primary reason is to assure a steady and uninterrupted flow of supplies of crude oil at periods of peak demand. A second reason is to guarantee proper quality of crude oil to match the capabilities of individual refineries—especially crudes that have a proper content of sulfur and metals, and those which provide high gasoline yields.

B. Competition In Producing

Percentage depletion is clearly not anti-competitive in the producing stage of the industry:

> . . . In any event, what is keeping the independents in business is that depletion allowance and the deduction for intangible drilling costs . . . the depletion allowance . . . is one advantage of the independents over the majors. Look at the 70 percent personal income tax and compare it with the 48 percent rate on corporations; that depletion allowance attracts money to take a chance on drilling wildcat wells by the independents. That is the only competitive advantage they have. [S 11475]

Since independents drill 75 or 80 percent of the exploratory wells, some might say that they must have other competitive advantages, e.g., flexibility of response to new opportunities. But percentage depletion is surely significant, and it is surely pro-competitive.

Competition in oil and gas exploration and production is intense compared with other industries. The Office of Oil and Gas, Department of Interior, has calculated that independents outside the top 23 oil companies produced 42 percent of domestic petroleum in 1972.[37] The latest available published statistics of the Federal Trade Commission show that in 1967, 16 percent of steel production, 14 percent of soap and malt liquors, 7 percent of aircraft engines and parts, and 3 percent of tires and tubes came from companies outside of the top 20 in these industries. Essentially all production came from within the top 20 in such industries as motor vehicles, aircraft, cigarettes, and telephone and telegraph apparatus.

The major oil companies have been active primarily in the search for potentially large deposits of oil and natural gas—especially offshore and in the Arctic—utilizing advanced and very expensive exploration and development techniques. The 10,000 or so independent producing companies have tended to concentrate in widespread conventional drilling for smaller deposits onshore. According to Chase Manhattan Bank figures, the top 30 oil companies contributed 70 percent of the funds for exploration during the period 1964 to 1972. Since 1950, 24 giant fields of 100 million barrels or more have been found. Of these about two-thirds were discovered by major companies. The independents drill most of the wells; the majors spend most of the money. And the business is highly competitive.

VIII

PRICE EQUIVALENT OF PERCENTAGE DEPLETION

In the debate over the role of percentage depletion as an incentive to domestic petroleum exploration and production, considerable confusion has arisen over the effect on industry costs and cash flows of losing percentage depletion. Much of the confusion over percentage depletion can be traced to misunderstandings of the manner in which percentage depletion shows up in the domestic oil producer's economics. Logical pitfalls which appeared during the Senate debate included:

(1) Confusing or ignoring the important economic distinction between "marginal" and "average" economic concepts, especially tax rates, and commingling marginal and average data;
(2) Intermingling data on the U. S. petroleum industry with worldwide data;
(3) Assuming that a dollar of increased tax cost can be fully offset by a dollar of increased revenue, i.e., price; and
(4) Confusing the tax concept of "cost depletion" with book depreciation.

It is essential that misimpressions left in the Senate debate be corrected.

A. Erroneous Computations Of The Price Equivalent Of Percentage Depletion

Wholly incorrect estimates of the price required to offset loss of percentage depletion were offered during the debate. The estimates were not only incorrect; they did not even agree among themselves. One example:

> ... those who support the depletion allowance argue that repeal of depletion may raise the cost of gasoline at the pump, possibly by as much as 3 cents per gallon ... the calculation assumes a 48 percent effective tax rate on oil profits. But, in fact, the effective tax rate of America's major oil companies is far lower, only about 5 to 6 percent ... Therefore, ... the increase at the pump would be more like one-third of cent a gallon ... [S 11458]

This calculation is misleading and meaningless.

Indeed, if percentage depletion were deducted from revenues that would otherwise be taxed at "only about 5 to 6 percent," it certainly would not be much of an economic incentive. If percentage depletion is only worth 5 or 6 cents on the dollar, why is there such an effort to repeal it? It would only raise Federal receipts by about $300 million. Those who so glibly toss out such miscalculated data should recognize that taxing depletion deductions at a mere "5 to 6 percent" clearly will not produce the billions of added tax revenue that the American voter has been promised!

The "5 to 6 percent" figure incorporates two of the four errors in logic mentioned above: it relates U. S. income taxes to total worldwide income, while ignoring foreign income taxes; and it also confuses marginal and average tax rates. As we have seen, comparing U. S. Federal income taxes paid by U. S. oil companies with their total worldwide income—while ignoring the billions of dollars in foreign taxes paid by the companies—is a naive but persistent mistake made in analyzing oil industry economics. That is the source of "5 to 6 percent." It is the false average rate computed by dividing United States tax by worldwide income. If one wanted to use an average rate, he should use 25.6 percent, which is United States tax divided by United States income.

However, it is the *marginal* tax rate on domestic income which matters. If an extra dollar of domestic corporate income is subjected to Federal tax, that dollar will be taxed at a 48 percent rate. Hence—setting aside depletion would cost the corporation 48 cents on the dollar, not 5 or 6 cents.

Another example of computing the price increase required to offset the loss of percentage depletion contained a quadruple error:

> If the depletion allowance were taken out, the maximum value of the percentage depletion on old oil at present prices is 55 cents per barrel. If the percentage depletion is withdrawn—that is, on old oil—firms could take the cost depletion. That is normal depletion, which is roughly half of that, and thus the additional tax liability would be 25 cents a barrel at most. If fully passed through to the gas pump, this would translate into about 0.6 cents per gallon ... [S 11474]

Senator Long immediately objected that:

> ... if the companies are going to make the money back against the 48 percent tax rate, they have got to double the figures used by the Senator.

Senator Humphrey responded:

> No. [S 11474-11475]

Yes—and then some.

In the first place, the 22 percent depletion allowance in the computation is valued for a corporation in a 48 percent marginal bracket: 55 cents = 22 percent of $5.25 per barrel times 48 percent marginal tax rate. However, for an independent producer in a 70 percent marginal bracket, the value would be: *81* cents = 22 percent of $5.25 per barrel times 70 percent marginal tax rate.

Second, the computation ignores the lost cash flow from percentage depletion on new oil. New oil earns twice as much depletion per barrel and accounts for about one-third of production. For a corporation, the after-tax value of 22 percent depletion for a composite barrel valued at $7.50 should be 79 cents, not 55 cents.

Third, the implied after-tax value of cost depletion is 30 cents per barrel, since 55 cents less cost depletion allegedly gives a new value of 25 cents per barrel for percentage depletion on old oil. This 30-cent figure for cost depletion on old oil appears to be far overstated. It is totally at variance with estimates presented over the years by the United States Treasury and other sources—three cents is more like it after taxes. Although the genesis of the 30 cents is not entirely clear, it appears to be based on the before-tax value for average total oil industry "depreciation plus depletion" as per financial statements and not "cost depletion" from the tax returns. Such data are simply not equivalent or comparable, and lead to very serious errors in estimating the economics of depletion. "Cost depletion" from the tax returns covers primarily geological and geophysical exploration expense and lease acquisition costs for producing properties. "Depreciation plus depletion" in the financial statements covers virtually all costs except dry holes and, for some companies, geological and geophysical expense. Cost depletion from the tax returns is only a miniscule part of depreciation and depletion from the financial statements.

Fourth, as Senator Long correctly pointed out, since 55 cents is the *after*-tax value of statutory depletion to a corporation, approximately twice that much extra revenue would be required to offset the loss of percentage depletion. Each extra dollar of revenue is taxable at 48 percent, hence, it takes almost $1.10 of revenue to provide 55 cents after tax—$1.06 to be precise. For an individual in a 70 percent marginal bracket, it takes $1.75 to provide 55 cents after tax. The expansion factors for converting the tax benefit into an equivalent price increase are 1.92 for a corporation and 3.33 for an individual in a 70 percent marginal bracket [= 1 ÷ (1 - marginal tax rate)].

The net result of the quadruple error is a major understatement. The right average figure for all oil is about 3 cents per gallon, not 0.6 cents.

B. The Average Value Of Percentage Depletion

Like the "average man," there is no such thing as the average oil producer. However, enough data exist to draw a reasonable statistical composite for purposes of illustrating the aggregate impact of percentage depletion.

To illustrate how such a value might be derived as an industry average, Case I of Exhibit D shows hypothetical depletion economics for an "average" producer selling crude oil at $7.50 per barrel, the approximate current industry average price.

Key economic assumptions in Case D-I include:

- Percentage depletion is assumed to be effective at an 18 percent average rate after allowing for the minimum tax on tax preferences and the limitation to 50 percent of net income.
- Average cost depletion of $0.06 per barrel is in accordance with estimates by government and industry sources in the $0.04-0.07 range.

The following tax assumptions were used in Case D-I:

- The oil producing industry is assumed to be a composite of 48 percent bracket corporate taxpayers and 50-70 percent bracket individual taxpayers: an average tax rate of 52 percent was assumed representative. (It should be noted that some oil companies may appear to have overall average tax rates less than 48 percent due to consolidation effects of other activities and normal differences between tax and financial reporting. However, for taxable production income after deducting allowed depletion, such taxpayers will normally be subject to taxation at the full rate applicable to ordinary income, i.e., 48 to 70 percent.)
- Although there would be no 10 percent minimum tax due in Case D-I if it were an example at the margin, the producing industry is assumed, on the average, to pay the minimum tax on preferences at one-half the nominal rate or an effective 5 percent rate.

Loss of percentage depletion in Case D-I would reduce the producer's depletion charges by $1.29. As a consequence, Federal income taxes would be increased by $0.67. However, if the "average" producer is to be made whole in terms of his net cash flow, he must receive $1.40 per barrel more for his crude oil, or 3.3 cents per gallon of domestic crude oil [1.29 ÷ (1-.52) = 1.40]. In situations where the full 22 percent rate applies, statutory depletion on the average barrel would be worth 4.1 cents per gallon.

Case D-II shows a $5.25 per barrel example for "old" oil worked with the same operating assumptions as Case D-I. Again assuming that every producer and every project is average, these calculations indicate that making up loss of percentage depletion on old oil would call for a price increase of $0.79 per barrel or roughly 1.9 cents per gallon of domestic crude oil. In situations where the full 22 percent rate applies, statutory depletion on old oil would be worth 2.8 cents per gallon.

Exhibit D
DEPLETION ECONOMICS FOR THE "AVERAGE" PRODUCER

	Case D-I	Case D-II
	- - - -$ per Barrel - - - -	
(1) Current Sales Price	$7.50	$5.25
(2) Percentage Depletion @18% Effective Rate	1.35	.80
(3) Less: Cost Depletion	.06	.06
(4) Equals: Reduction in Depletion	$1.29	$ .74
(5) Increase in Federal Income Tax = 52% of Line (4)	.67	.38
(6) Price Increase to Restore Cash Flow = Line (5) ÷ (1-.52)	1.40	.79
(Memo: cents/gallon)	(3.3)	(1.9)
(7) New Sales Price to Make Whole:	$8.90	$6.04

Exhibit E
EFFECT OF DEPLETION ON ECONOMIC INCENTIVES

	Case E-I*	Case E-II*
	- - - - $ per Barrel - - - -	
(1) Current Sales Price	$11.00	$11.00
(2) Percentage Depletion @ 22% Effective Rate	2.42	2.42
(3) Less: Cost Depletion	.50	.50
(4) Equals: Reduction in Depletion	$ 1.92	$ 1.92
(5) Increase in Federal Income Tax E-I = 48% of line (4); E-II = 70% of line (4)	.92	1.34
(6) Price Increase to Restore Cash Flow = Line (5) ÷ (1-tax rate)	1.77	4.47
(Memo: cents/gallon)	(4.2)	(10.6)
(7) New Sales Price to Make Whole	$12.77	$15.47

**Note:* Case E-I assumes a 48 percent bracket taxpayer; Case E-II assumes a 70 percent bracket taxpayer.

C. Percentage Depletion And Economic Incentives

The critical economic effect of percentage depletion is not found in its average impact on total oil production (new plus old) but in the economic incentive it provides at the margin.

In most instances, business investment decisions are based on the marginal costs and revenues involved, and not on average costs and revenues. Thus, the economic incentive value of percentage depletion rests on its independent impact on the marginal investment decisions that the individual petroleum producer is currently considering and not on the historical average operations of the entire industry. (Its average value measures the total flow of funds attributable to the allowance.)

The "margin" in the oil producing industry may be thought of as new, leading-edge investments in petroleum exploration and production, as well as introduction of secondary recovery and reworking of older, low-yield wells (including so-called "stripper" wells) which are close to abandonment because of their low profitability. Percentage depletion must be evaluated in its marginal, incentive role if its implications for sound public policy decisions are to be assessed correctly.

Currently, newly-discovered domestic crude oil in the United States is selling at a price of around $11 a barrel. This $11 price incentive has already had a powerful impact on new investment commitments in the oil industry, including a pronounced surge in drilling activity, accelerated programs in secondary recovery of known oil reservoirs, and sharply increased interest in Federal lease sales.

The impact of removing percentage depletion on new, leading-edge developments is illustrated in Exhibit E, where the marginal economics of two hypothetical oil producers are shown: a 48 percent tax bracket corporate taxpayer (Case E-I) and a 70 percent tax bracket individual producer (Case E-II). Because of the impact on current acreage acquisition costs of sharply higher offshore lease bonus payments, an effective cost depletion rate of $0.50 per barrel is felt to be more representative of new producing properties recently put up for bid by the government. Percentage depletion is assumed effective at the full 22 percent rate. Neither taxpayer is assumed to have net preference items in his base activities that are subject to the 10 percent tax on preferences; so no incremental minimum tax liabilities or credits are generated at the margin. This figure may not be appropriate for future costly deepwater and Arctic properties.

The data of Exhibit E indicate that to restore leading-edge economic incentives after abolishing percentage depletion would call for crude oil price increases in the range of $1.75 to $4.50 per barrel, or 4 cents to 11 cents per gallon.

An essentially similar line of marginal economic analysis may be developed for the case of the "stripper" well, where an increase of $1.75 or more per barrel in tax liabilities would force premature abandonment of a significant portion of this valuable segment of domestic crude oil production capacity unless offsetting price increases are realized.

In summary, this analysis has shown that abolishing percentage depletion would have its most pronounced impact on marginal investment decisions at the leading-edge of the domestic oil industry. Full restoration of incentives would require price increases of at least $1.75 a barrel or 4 cents per gallon of domestic crude oil.

Without a compensating increase in revenue, abolishing percentage depletion would cut the oil producer's cash flow by 15 to 30 percent at the margin, and drain the industry of $2-3 billion per year of funds badly needed for reinvestment. In the wake of a brief but massive interruption in America's ability to import oil, the adoption of such a punitive tax measure aimed squarely at leading-edge incentives for domestic oil exploration can only be deemed short-sighted and contrary to our Nation's best interests.

IX

CONCLUSION

During the debate, a crucial set of steps was missing in moving from the facts of higher prices and profits to the conclusions so confidently articulated by advocates who would increase petroleum taxation. They asserted that, "At these profit levels the domestic producing industry is going to be able to raise all the capital it needs . . ." [S 11460] and "The soaring price of oil is enough incentive by itself to stimulate all the additional exploration and production needed by America . . .". [S 11457]. But these were only assertions.

What was missing was rigorous analysis. What rate of return is needed to attract capital? What is the true profitability of the industry? What is its true tax burden? How many investment dollars will be needed?

The Chase Bank states that a 15 to 20 percent rate of return is needed. After allowing for inventory profits, the rate of return for the larger American companies was about 18 percent during the first nine months of 1974. The industry's 1972 income tax burden was about 25 percent domestically and 50 percent worldwide. Its total tax burden is 6 percent of gross revenue—higher than the average for other American companies.

The current uncontrolled price of new oil is about $11 per barrel. Several sources indicate that synthetic liquid petroleum from oil shale or coal will cost about $10 per barrel, or more, in 1974 dollars. OPEC leaders have indicated they will key their prices to alternative energy sources. Thus, domestic oil at market price is cost-based relative to replacement costs; and it is an economic and national security bargain.

The industry's domestic capital expenditures averaged about $9 billion annually during the past five years. In the first half of 1974, capital expenditures by the larger companies were at an annual rate of $13 billion—more than double the previous year. Their worldwide profits were also at an annual rate of about $12 or $13 billion after allowing for one-time inventory profits. The Secretary of the Treasury has cited data indicating a need for $36 billion of annual capital expenditures, on the average, through 1985—far more than the present profit or expenditure level.

Percentage depletion has been an effective incentive. It pays off for success, just as does market price. It stimulates exploration, development, secondary recovery, and high-cost operations. Its effect is additive to price; and it is not obsolete.

Since the price of new domestic oil is set by world prices, economic theory would say that a pass-through of a domestic tax increase to consumers is not feasible in the absence of import controls. Ending percentage depletion on new oil could, therefore, mean less exploration and increased dependence on imports. Those imports would probably have to come from the Middle East.

To the extent that Congress eliminates depletion allowances for any portion of the industry, thus increasing taxes, it is likely that internal sources of funds available for investment would decrease further—even with no new limitations on profits. This means that external sources of funds would have to provide more of the capital which will be used to finance all of the new investments of the oil industry. That, in turn, means that rates of return must remain up; but elimination of percentage depletion would reduce the rate of return by about three percentage points. Today, the competition for funds is unprecedented. If the oil industry continues to be surrounded by uncertainty and possible punitive actions by Congress, the outlook for raising external funds will be dismal for all companies—nonintegrated refiners, large integrated companies, independent producers, and other energy companies.

Any reduction in percentage depletion would be contrary to the national interest. However, if such a change is made, it should be prospective to make it applicable to properties acquired after the legislation is passed. Projects undertaken in past years would not then be deprived of an allowance which was expected at the time of the investment decision and which, accordingly, entered into the original economic choice: to drill or not to drill.

If any reduction in depletion is made applicable to existing properties, the legislation should at the very least contain a provision for a pass-through of the added tax cost on "old" oil and regulated gas, if not for full restoration of free market forces. Allowing a cost pass-through with continued price controls would require that the effective date of the legislation not be made retroactive. Depletion lost retroactively could not be recovered because the oil would already have been sold.

It might be objected that past exploration decisions never anticipated percentage depletion based on a crude oil price so high as $5.25, the present ceiling on "old" oil. Hence, this higher price may *already* have offset loss of the originally expected percentage depletion allowance. Senator Humphrey contended that "the price of oil has already gone up." [S 11472] But an "old" oil price of about $6 is required just to bring the "old" crude oil price in line with inflation. When

one makes an investment decision, it is surely not unreasonable to expect future price increases in accord with general inflation. In fact, price increases substantially *greater* than the inflation rate could be anticipated in an increasing-cost extractive industry which must look to progressively more difficult geological prospects as the years pass. A compensating price increase for "old" oil would prevent the after-tax value of "old" oil prices from being reduced far below the level which offsets general price inflation since World War II, as well as maintaining the flow of internally generated funds needed for new exploration.

Insofar as the foreign operations of American oil companies are concerned, efforts to eliminate or impair the operation of the foreign tax credit are not in the national interest. With United States taxes imposed on top of foreign taxes, American companies could not compete with foreign-owned companies, which pay only the foreign taxes. Since a continued American presence in the international oil industry will not diminish the interest of American companies in economically attractive domestic expansion projects, there is no reason for the Government of the United States to drive them out of the international business.

Indeed, their technical and managerial competence is sorely needed there. The United States will, itself, require substantial oil imports for many years even with spectacular success in domestic exploration. And restoration of the economic health of Europe and Japan may well depend on increased indigenous energy production in those areas, together with diversification of other foreign sources of petroleum. Because of the inevitable and irreversible interrelationships among the economies of Europe, North America, and Japan, it is in the direct national interest of the United States to do what it can to preserve the economic status of all of these economies and to assure the stability of the international monetary system.

Thus, it makes no national sense to undertake tax policies which would drive American companies out of the international oil business. This is especially true when one recognizes just how invalid are the arguments used to support increased taxation of the foreign-source income of American oil companies. They do not use the foreign tax credit to excess—they have had more foreign tax credits than other businesses merely because they have had more foreign income. And their foreign income taxes are not royalties—they pay both income taxes and royalties, with the royalties comparable in amount to those paid at home.

In summary, a major effort is under way in the United States, Canada, Europe, and Asia to decrease consuming country dependence on OPEC oil. Market forces are spurring an intensive worldwide effort to bring on new supplies. Domestic capital expenditures by the larger American companies in the first half of 1974 were over twice the 1973 level. This confirms the belief we share with Senator Humphrey that, if allowed to operate, the marketplace will call forth new supplies. Our basic disagreement is that we believe that the market forces will be more productive of increased indigenous energy supplies with percentage depletion and an unimpaired foreign tax credit than without. "Let the market forces operate" without governmental impairment.

REFERENCES

1. The Chase Manhattan Bank, Energy Economics Division, "The Profit Situation" (New York, April, 1974).
2. Testimony of Thornton B. Bradshaw, President, Atlantic Richfield Company, and Emilio G. Collado, Executive Vice President, Exxon Corporation, Hearings on Capital Requirements, August 19, 1974.
3. Letters to the Editor, May 9, 1974 and May 18, 1974.
4. First National City Bank, Petroleum Department, Energy Memo, "Ravaging Prospect" (New York, July, 1974).
5. Carl F. Pforzheimer & Co., Research Department, "First Half 1974 Oil Earnings" (New York, August, 1974), p. 2.
6. First National City Bank, Petroleum Department, Energy Memo, "Ravaging Prospect" (New York, July, 1974).
7. "Statistical Data for Selected Petroleum Companies" compiled by Price Waterhouse & Co. for the General Committee on Taxation of the American Petroleum Institute (Houston, 1973), pp. 2-3.
8. *Ibid.*
9. Petroleum Industry Research Foundation, Inc., "The Tax Burden on the Domestic Oil and Gas Industry," May, 1972, p. 13.
10. See, for example, *Petroleum Intelligence Weekly*, February 4, 1974, reporting sales to Japan and other markets.
11. Testimony of Emilio G. Collado before the U.S. Senate Subcommittee on Multinational Corporations of the Committee on Foreign Relations, June 6, 1974.
12. First National City Bank, Petroleum Department, Energy Memo, "Investment Revival Ahead?" (New York, October, 1973).
13. Hearings before the Committee on Foreign Relations, United States Senate, 90th Congress, 1st Session, on Tax Convention with Brazil, *Executive Journal*, 1967, pp. 19-20. Professor Surrey reaffirmed his view that the foreign tax credit should be retained in his appearance before the Committee on Ways and Means, February 5, 1973.
14. U.S. House Committee on Ways and Means, Hearings on *The Administration Windfall Profits Tax* (Washington, February 4, 5, 6, and 7, 1974), p. 145.
15. *Ibid.*, pp. 145-146.
16. U.S. Senate Subcommittee on International Trade of the Committee on Finance, *Compendium of Papers re. Multinational Corporations* (Washington, February 21, 1973), pp. 22-23.
17. *Ibid.*
18. *Ibid.*
19. Testimony of William P. Tavoulareas before the U.S. Senate Subcommittee on Multinational Corporations of the Committee on Foreign Relations, June 6, 1974.
20. Testimony of Sanford G. Ross before the U.S. Senate Subcommittee on Multinational Corporations of the Committee on Foreign Relations, January 30, 1974, p. 49.
21. See Dan T. Smith "Tax Revisions: Theory and Reality" in Tax Foundation's *Tax Review*, September, 1974, p. 1.
22. See Edward W. Erickson, et al., "Taxation and the Petroleum Industry" in Taxation With Representation, *The Petroleum Industry's Tax Burden* (Washington, 1973), pp. 73-48, 49, and 50—especially fn. 1 on p. 73-50.
23. Mid-Continent Oil and Gas Association, *et al.*, "Analysis and Comment Relating to the CONSAD Report on the Influence of U.S. Petroleum Taxation on the Level of Reserves" in U.S. Senate Committee on Finance, Hearings on *H. R. 13270 to Reform the Income Tax Laws* (Washington, 1969), Part 5, pp. 4627-4647 at p. 4627.
24. Robert M. Spann, *et al.*, "Percentage Depletion and the Price and Output of Domestic Crude Oil" in U.S. House of Representatives Committee on Ways and Means, Hearings on *General Tax Reform* (Washington, February 26, 1973), Part 9, p. 1322.
25. Humble Oil & Refining Company—Standard Oil Co., (N.J.) submission to the Cabinet Task Force on Oil Import Controls, 1969, p. 15.
26. Interview with the Beirut Weekly *al-Hawadith*, June 21, 1974; reported in *Middle East Economic Survey*, July, 1974, pp. 7-8.
27. Statement of W. L. Henry, Executive Vice President, Gulf Oil Corporation, before the U.S. House Committee on Ways and Means, Hearings on *The Administration's Emergency Windfall Profits Tax* (Washington, February 4, 5, 6, and 7, 1974) p. 480.
28. The Chase Manhattan Bank, Energy Economics Division, "The Profit Situation" (New York, April, 1974).
29. Reported in *Oil and Gas Journal*, September 2, 1974, p. 40.
30. National Petroleum Council, "Emergency Preparedness for Interruption of Petroleum Imports

into the United States" (Washington, September 10, 1974) p. 1[illegible].

31. Statement of Robert G. Dunlop testifying before the U. S. House Committee on Ways and Means, Hearings on *Tariff and Trade Proposals* (Washington, 1970), p. 2245.
32. Testimony of John Hutchins, President, Cameron Engineers, before the U.S. House Subcommittee on Energy of the Committee on Space and Aeronautics, May 14, 1974.
33. Statement of Robert O. Anderson before a meeting of Security Anaiysis in New York City on October 16, 1974.
34. Statement of Bob R. Dorsey, Chairman of the Board of Gulf Oil Corporation, before a meeting of Security Analysts in Chicago on October 30, 1974.
35. Statement by Robert Epperly before the 9th Intersociety Energy Conversion Engineering Conference, San Francisco, August 29, 1974.
36. Submission relating to letter from William Simon to Lewis A. Engman, Chairman, Federal Trade Commission, July 30, 1973, "Staff Analysis ... of the FTC's July 2, 1973 Preliminary ... Staff Report on its Investigation of the Petroleum Industry" (Washington, August 27, 1973), p. 10.
37. U. S. Department of the Interior, Office of Oil and Gas, Submission to U. S. Senate Committee on Interior and Insular Affairs, August 2, 1973, p. 10.

AMERICAN PETROLEUM INSTITUTE
1801 K STREET, N.W. WASHINGTON, D.C. 20006

March 10, 1975

Dear

The House Commerce Committee has HB 208 under consideration. A hearing is scheduled for 8:00 a.m. March 21 in Room 203 of the Assembly Building. You are invited to give testimony at that time.

Sincerely,

Bob Bradley

BB/mr

12/21/83
This is a copy of what is on the mag card.
Jeanne Henry

H. Com. 1975/76
bill file

Letter to lobbyists
re HB 208

ENCLOSED IS MAG CARD WITH "LETTER TO LOBBYISTS" ON IT. ORIGINAL IS STORED IN STATE ARCHIVES, JUNEAU, ALASKA.

HB

209

HB 209

Tape #
10

Date
3/6

"An Act relating to penalties under the Alaska income tax."

COMMITTEE REPORT

2/20/75 HOUSE JUDICIARY

Mr. Speaker: Date _____

The Committee on Commerce has had SB 209 under consideration. A Majority of the members of the Committee

(X) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

02-001B (REV. 08-73)

MEMORANDUM State of Alaska

TO: R. D. Stevenson, Special Asst.
Office of the Commissioner
Department of Revenue

DATE: March 5, 1975

FILE NO:

TELEPHONE NO:

FROM: Frederick P. Boetsch FPB
Deputy Commissioner
Department of Revenue

SUBJECT: House Bill 209

A recent survey by auditors and enforcement officers of the Department of Revenue indicated that there was a substantial violation of the withholding tax laws by non-resident workers connected with the Trans-Alaska Pipeline. The violation consisted of submitting a Form W-4 (the withholding tax declaration) with an unreasonable number of exemptions claimed which led to a zero withholding tax. In some cases we found as many as 50 or 60 exemptions had been claimed. The obvious objective of claiming so many exemptions would be to insure that there would be no state income taxes withheld from their pay checks. Without withholding it is unlikely that we would ever receive any tax from these individuals.

Although it would be possible to prosecute these individuals under our existing fraud statutes, the standard of proof is quite complicated and the time reqired to conduct an investigation would be such that many of these individuals may have left the state by the time any action could be brought. In reviewing the federal Internal Revenue Code with respect to this problem we find that they have a specific statute which addresses itself to the question of persons supplying false information to an employer for withholding purposes. The proposed bill is consistant with that provision of the Internal Revenue Code. Basically it allows us to prosecute for fraud, an individual who supplies false information or willfully fails to supply information to his employer for purposes of withholding the Alaska Income Tax. With this kind of provision it is merely necessary for us to establish that such false information was provided to the employer or that such information was withheld. It is not necessary to address ourselves to the more complex question of income tax evasion as such.

Although the punishment is a misdemeanor, and the jail term is for one year, we felt that a $5000 maximum fine was necessary in order to encourage compliance since in most cases that would be more than the tax itself. A person then would run the risk of having to pay the tax and a fine as well as possibly serving some time in jail.

We feel that a statute providing for a direct penalty for submitting false information to an employer for withholding purposes will allow us to proceed more swiftly against violators and thereby curtail the problem before it gets out of hand.

It is difficult to measure the effects on Treasury of this bill since we do not have a total grasp of the extent of the problem or how much money might come in as a result of withholding on these individuals. However, obviously the effect will be positive since it will bring many more people under the withholding provisions.

We anticipate no additional administrative costs administering this bill since Witholding Tax Audits, in connection with the pipeline project, are a part of the Pipeline Impact Budget.

FPB:lw

HB

210

HB 210

Tape #	Date
10	3/6

"An Act relating to the Alaska business license tax; and providing for an effective date."

COMMITTEE REPORT

2/26/75 HOUSE FINANCE

Mr. Speaker: Date _____

The Committee on Commerce has had HB 210 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

MEMORANDUM State of Alaska

TO: R. D. Stevenson, Special Asst.
Office of the Commissioner
Department of Revenue

DATE: March 5, 1975

FILE NO:

TELEPHONE NO.

FROM: Frederick P. Boetsch
Deputy Commissioner
Department of Revenue

SUBJECT: House Bill 210

This bill arises from an administrative problem which banks have with respect to meeting their obligations under the Alaska Business License Act. Under that Act banks are taxable on 7% of their taxable income as determined for federal income tax purposes with some adjustments. Our Business License tax is due on February 28 but banks typically do not file federal income tax returns until much later. Therefore, the basis upon which our tax is assessed is really not determined until after the due date of the return. This forces banks to file estimates with us and then amended returns at a later date and causes them, as well as ourselves, unnecessary adminstrative headaches.

This bill would simply change the date for filing the bank tax return to the same date required for federal income tax returns, thereby eliminating unnecessary administrative burdens for us and for them.

This bill would have no effect on Treasury and there are no administrative costs connected with it.

FPB:lw

HB

211

HB 211

Tape #
15

Date
3/20

"An Act relating to the administration of state tax and revenue laws; and providing for an effective date."

COMMITTEE REPORT

HOUSE

2/26/75

JUDICIARY
FINANCE

Mr. Speaker: Date 2/26/75

The Committee on Commerce has had HB 211 under consideration. A Majority of the members of the Committee

(X) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

L. F. Kelly — Dolan — [illegible]

Freeman

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

L. F. Kelly Chairman

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER / POUCH S—JUNEAU 99801

March 13, 1975

File

The Honorable Bob Bradley
Chairman
House Commerce Committee
Alaska State Legislature
State Capitol
Juneau, Alaska 99811

Dear Mr. Bradley:

re House Bill No. 211

House Bill No. 211, an Act relating to the administration of state tax and revenue laws was introduced on February 26, 1975 and was referred to the House Commerce, Judiciary and Finance Committees.

For the consideration of the Commerce Committee, I am enclosing a copy of a memorandum dated March 12, 1975 from Frederick P. Boetsch, Deputy Commissioner of the Department of Revenue outlining the administrative need for the proposed legislation which is housekeeping in nature.

If you or any members of your Committee have any questions on the material submitted, kindly advise the writer by telephone at 465-2397 and I will contact Mr. Boetsch for further material or testimony.

Very truly yours,

R. D. Stevenson
Special Assistant

RDS:sp
Enclosure

cc The Honorable Terry Gardiner
Chairman
House Judiciary Committee
The Honorable Hugh Malone
Chairman
House Finance Committee
Frederick P. Boetsch
Deputy Commissioner for Taxation
Department of Revenue

02-001B

STATE
of ALASKA

MEMORANDUM

TO: R. D. Stevenson
Special Assistant
Department of Revenue

DATE : March 12, 1975

FROM: Frederick P. Boetsch
Deputy Commissioner for Taxation
Department of Revenue

SUBJECT: HB 211

House Bill 211 is an administrative housekeeping measure designed to provide uniformity in the administration of our various tax laws. It also provides for the hiring of out-of-state agents to audit the books and records of out-of-state taxpayers, in addition to our present power to enforce collection of taxes by this means.

Presently, each of our tax laws have separate administrative procedures with repect to civil penalty, interest, disclosure of tax returns and reports, taxpayer remedies, and payment of taxes. This frequently creates confusion in the mind of the taxpayer and his representatives. It also causes administrative difficulties since a different procedures apply to each tax type. Finally the lack of uniformity is probably unfair to the taxpayer since it unnecessarily complicates his compliance with our various tax laws.

This bill, then, would eliminate the various administrative procedures mentioned from the different specific tax chapters and place these provisions under the general administrative chapter, of Title 43.

Since the propose of this bill is to provide for administrative uniformity in procedures and ease of compliance with our tax laws by taxpayers, we see no direct effect on Treasury. However, anything which eases compliance and provides for fair and more uniform standards in general has a postive effect on taxpayer compliance and, hence, on the Treasury.

We anticipate no administrative costs in connection with this bill.

FPB:sp

02-0018

STATE
of ALASKA

MEMORANDUM

File.

TO: R. D. Stevenson
Special Assistant
Department of Revenue

DATE : March 12, 1975

FROM: Frederick P. Boetsch FPB
Deputy Commissioner for Taxation
Department of Revenue

SUBJECT: HB 211

House Bill 211 is an administrative housekeeping measure designed to provide uniformity in the administration of our various tax laws. It also provides for the hiring of out-of-state agents t audit the books and records of out-of-state taxpayers, in addition to our present power to enforce collection of taxes by this means.

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This bill, then, would eliminate the various administrative procedures mentioned from the different specific tax chapters and place these provisions under the general administrative chapter, of Title 43.

Since the propose of this bill is to provide for administrative uniformity in procedures and ease of compliance with our tax laws by taxpayers, we see no direct effect on Treasury. However, anything which eases compliance and provides for fair and more uniform standards in general has a postive effect on taxpayer compliance and, hence, on the Treasury.

We anticipate no administrative costs in connection with this bill.

FPB: sp

HB

216

HB 216

Tape #	Date
11	3/11

"An Act relating to motor vehicle licenses."

Return to Commerce 3/26/75

COMMITTEE REPORT

HOUSE FINANCE

Mr. Speaker: Date 3/28/75

The Committee on Commerce has had HB 216 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

(X) "other" unfavorable

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends: _____

_____ recommends: _____

_____ recommends:

Freeman recommends: NC - DO NOT PASS - NEVER - NEVER

_____ recommends:

_____ Chairman

STATE
of ALASKA

MEMORANDUM

TO: Charles A. Smith
Federal Projects Coordinator
Alaska Traffic Safety Bureau

DATE : February 28, 1975

FROM: Dennis Robertson
Consultant

SUBJECT: HB 216

Since this bill is focused on motor vehicle licenses, I called Ken Simpson (Registrar) to ascertain MVD's views on this bill as approved draft legislation is being finalized to bring MVD into Public Safety. The following are his views, in which I concur and to which I have no additions:

To alter the wording in AS 28.10.135 to require fully reflectorized plates will principally benefit law enforcement, but will require issuance of a new plate to each person presently having plates. Ken estimates costs at $3/4 million, and will prepare a fiscal note on this (and other bills) and will send us copies.

On the second page of the bill, amendment is made to AS 28.10.200(b)(8), increasing fees to be levied, as is done with other fees in Sec. 200(b). However, Ken reports serious computer and definition problems with respect to "use" of pick-up trucks. If commercially used, the fee in (b)(8) applies; otherwise pick-up owners pay a different amount under (b)(4). Ken strongly (and preferably) recommends deletion of (b)(8) altogether; or striking any reference to commercial use in (b)(8) if that paragraph is retained.

Ken has another problem, again with the wording, in Sec. 360. He recommends deleting "Before operating or permitting --- on any highway" in lines 5 and 6 of page 3 of the bill (In effect, beginning the section with, "The transferee shall present ---"). The wording problem here arises with respect to operation on highways and the 20-day limitation on transfers imposed on line 10. People will attempt to evade payment of the required fees by saying, "I'm not operating on a highway" etc. Thus, the intent of the section is circumvented, and consistent and equal enforcement is not possible. Ken also recommends that the 20-day limitation be reduced to 10 days.

cc: Ken Simpson
Motor Vehicle Division (Anchorage)

CITY OF ANCHORAGE ALASKA

International
Polar air crossroads of the world

POST OFFICE BOX 600
ANCHORAGE, ALASKA
99510

November 19, 1974

Kenneth Simpson, Registrar
Department of Revenue
Motor Vehicle Section
509 West Third Avenue
Anchorage, Alaska 99501

RE: License Plates

Dear Sir:

A "plate year" issue of Alaska vehicle license plates in the near future could be of significant value to law enforcement and all citizens of our State.

Law enforcement's primary concern with license plates is the immediate means of vehicle identification they provide. Additional methods of checking vehicle identity are employed if the car or truck is stopped. However, the license plate remains as the first visible identifier. Accurate visual recognition of the plate is vital and the present alpha-numeric system, unfortunately, leads to greater possibility of error than some other established systesm.

Currently many Alaska plates are confusing because of the profusion of alpha-numeric prefixes which can be misread, since some alpha characters are almost identical in design to similar numerals. Many of these combinations would inadvertently lead to the misconception that a truck plate was improperly affixed to a passenger vehicle.

The color combinations (and I doubt the necessity of more than one color scheme) presently in use are not sufficiently contrasting to enhance visibility. The reflective characters seem to be of minimal value -- only a perfectly maintained "new" plate having any meaningful reflectivity. The black and silver commercial plate is even less legible than the blue on yellow.

High color contrast, large characters in predictable quantities and locations through a standardized format, a fully reflectorized surface resistive to our peculiar weather conditions, and a high color contrast reflectorized annual validation tab are some elements that would provide a better license plate. Any of these factors would tend to eliminate the misreading of plates both by law enforcement personnel and private citizens, who often obtain license numbers of vehicles involved in incidents, accidents, traffic offenses and crimes.

A reflectorized license plate is a valuable safety feature for a vehicle stalled on a roadway during hours of darkness. However, the present method of achieving a reflectorized surface is not compatible with existing conditions. The reflector surface is extremely rough and seems almost porous, allowing dust, mud, ice and snow to strongly adhere. It seems that a "slick" or at least smoother surface would be easier to clean and might remain clean longer.

A reflectorized high color contrast annual validation tab, serially coded to a valid registration certificate, would be a good system for this necessary item. One tab, affixed to the rear plate in a specific location, would eliminate the current practice of "tab splitting" and assist law enforcement personnel in determining if a plate was valid. Currently it is often difficult to determine if a plate has been validated because the tab is not reflectorized and is not affixed to all plates in the same location.

The issuance of plates to a particular owner who will retain the plates would eliminate the swapping of plates in large, as well as further requiring the owner of a vehicle who sells a vehicle to immediately go to the Department of Motor Vehicles and have the vehicle re-registered and still retain his plates. When the owner purchases a new vehicle, he can re-register his new vehicle using the plates that were retained by him. At least the law enforcement agencies would have current information on who the owner of the plates are at the time a violation was committed.

Sincerely,

Charles G. Anderson
Chief of Police

CGA/JL/amo

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

DIVISION OF STATE TROOPERS

JAMES P. WELLINGTON
COMMISSIONER

P.O. Box 6188 Annex
Anchorage, AK 99502

October 28, 1974

Kenneth Y Simpson, Registrar
Department of Revenue
Motor Vehicle Section
509 West Third Avenue
Anchorage, Alaska 99501

Re: License Plates

Dear Mr. Simpson:

I would support any move for a new plate-year as being in the best interests of law enforcement. In my view, the license plate upon a motor vehicle can serve three purposes: to identify individual vehicles for the purposes of law enforcement and theft recovery; to confirm that the annual license fee has been paid, and that it was appropriate to the proper vehicle classification; and a retro-reflective license plate can serve as a safety feature for a disabled vehicle.

The present license plate is entirely inadequate in all regards. There is a bewildering display of letters, numbers, styles, colors, words, and duplications. The blue-on-yellow plate does not have bright color contrast for legibility. The attempt to retro-reflect the number/letter display was a cost saving tradeoff that failed any benefit. The black and white commercial plate, and the yellow and blue plate, cannot be quickly read, or identified, under any circumstances short of near perfect conditions. There are no surfaces left on the plate to stick more annual tabs.

We need a good, clean, well contrasted plate with large letter/number display, hopefully entirely reflective, that is distinctive to classification, generally uniform to national trends, and designed for future annual tab additions.

We do not believe a single plate is sufficient. The only logical place to hang a single plate is upon the rear of the vehicle. In traffic, an officer is then only able to identify the vehicle directly ahead of him. All on-coming identification is disguised.

I believe that I have outlined the above recommendations for at least the past four years, sometimes in greater detail and with appropriate references.

Sincerely,

H J Sydnam

Captain Harold J. Sydnam
Assistant to the Director

HJS:em

cc Colonel M. E. Dankworth
Director

LOCATION	Jan. thru Nov. 1973	Jan. thru Nov. 1974	DIFFERENCE
ANCHORAGE	127,171	154,298	27,127
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KASILOF (closed)	20		(20)
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KODIAK	4,479	4,768	289
KOTZEBUE		85	85
PALMER	5,266	6,132	866
SEWARD	822	1,328	506
VALDEZ	592	963	371
SOLDOTNA		2,223	2,223
BETHEL	273	395	122
DELTA JUNCTION	1,553	1,614	61
NENANA	300	613	313
TOK	908	847	(61)
WRANGELL(closed)	719		(719)
WAINWRIGHT (closed)	14		(14)
	205,186	248,415 *	43,229

21% Increase

* 248,415 Registration/Renewal count plus
35,125 No-Charge Transfer Registrations
equal 283,540 Total Registrations issued.

A. Dept. of Revenue, Division of Motor Vehicles

1. Federal Highway Safety regulations recommend uniformity in license plate numbering systems. Our continuance to ignore this may result in a loss of Federal Highway Funds.

2. The existing series of license plate numbers, in existence since 1970, has grown to many different combinations which has resulted in no systematic method of assignment or designation of plate series to identify proper registration of vehicles. (Attachment #1)

3. Varied license designations have been identified as one of the major obstacles in preparation of documents for acceptance into the Data Processing Motor Vehicle record system. (Attachment #1)

4. A 3 Numeric, 3 Alpha system would provide the Division with 15 million numbering combinations, and would make another full plate year virtually unnecessary. (Attachment #2)

5. In comparing 1973 with 1974, Alaska's number of vehicle registrations has increased by nearly 50,000. The present unsophisticated license numbering system must be updated to provide all requirements of lending institutions and law enforcement agencies in Alaska as well as the other 49 States, and to properly serve the needs of every Alaskan citizen. The prediction is that by 1979 Alaska will have 400,000 vehicles registered. (Attachment #3)

B. Law Enforcement

1. Law enforcement's primary concern with license plates is the rapid means of vehicle identification for the purpose of law enforcement and theft

recovery. Accurate visual recognition of the plate is vital and the present complex Alaska plate numbering system lends itself to being easily misread.

2. Other concerns of importance are to identfy that proper annual license fees have been paid. The present license plate is less than satisfactory in all regards. (Attachment #4)

C. American Revolution Bicentennial Commission

1. The A.R.B.C. has been established to guide Americans in celebrating our heritage of liberty and to spearhead this great national birthday.

Graphic safety plates act as a sort of "mini traveling billboard" which portray our state's design with equal graphic impact both day and night. These Bicentennial "calling cards" will be highly visable wherever our state's registered vehicles travel. (Attachment #5)

2. The Division of Motor Vehicles has assured the Bicentennial commission full cooperation for imput into the design of a new plate. (Attachment #6)

D. Public Safety

1. Full reflectivity for safety was the intent of legislation passed in the 1970 session, which has not been implemented to date because there has been no new plate issue since that time.

The beaded legend on the current Alaska plate is not sufficient area to be an effective safety reflector or improve legibility. Fully reflective plates being used in the other states has proven to be an effective accident reduction tool.

As you know, a reflective safety plate is a standard license plate with the background fully reflectorized with a material which is 200 times brighter than a painted surface. It can be seen by approaching drivers up to 2,000 feet away, and alerts them in time to avoid rear-end collisions. Other features and benefits of reflective safety plates and more information as to how it relates to Alaska's highways is detailed on the enclosed fact sheet. (Attachment #7)

The following are 4 alternative plans for your consideration showing the cost factors as well as the advantages and disadvantages of each plan.

COST ANALYSIS

Requirements for 260,000 vehicle registrations:

	PLATES	POSTAGE		TOTAL
Plan I Fully Reflectorized @ $2.14 a pair	$556.4	$ 28.7	=	$585.1
Plan II Beaded on embossed area @ $1.14 a pair	323.3	28.7	=	352.0
Plan III 1 plate only fully reflectorized 30% off $2.14 = $1.15 each	390.0	14.3	=	404.3
Plan IV 1 plate only beaded 30% off $1.14 = $.80 each	208.0	14.3	=	222.3

RESULT:

		DIFFERENCE
Plan I	$585.1	
Plan II	352.0	(233.1)
Plan III	404.3	(180.1)
Plan IV	222.3	(362.8)

PLAN I

Two plates fully reflectorized.

ADVANTAGES:

Dept. of Revenue - Meets all needs of identification of vehicles for Dept. of Revenue registration/title issuance responsibilities. Provides internal controls in preventing errors in Motor Vehicle records.

Law Enforcement - Uniform license plate numbering system facilitates rapid identification of vehicles for law enforcement.

vehicles for law enforcement.

Safety - Fully reflectorized plates have been proven to substantially reduce night time rear-end collisions.

Other - Provides means to adopt Bicentennial committee recommendations without additional cost. Conforms fully to legislative intent of A.S. 28.10.135 requiring reflectorized plates.

DISADVANTAGES:

Refer to Cost Analysis

PLAN II

Two plates reflectorized beading on embossed area only the same as used on current plates.

ADVANTAGES:

Dept. of Revenue - Same advantages as Plan I

Law Enforcement - Same advantages as Plan I

Other - Bicentennial statement

Costs - Refer to Cost Analysis

DISADVANTAGES:

Safety - Reduction in reflectorized surface reduces safety factor

PLAN III

Single plate fully reflectorized.

ADVANTAGES:

Dept. of Revenue - Same advantages as Plan I

Law Enforcement - Same advantages as Plan I

Safety - Same advantages as Plan I

Other - Same advantages as Plan I

Costs - Refer to Cost Analysis

DISADVANTAGES:

Law Enforcement - Limits the ability to identify the

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

license number of on-coming vehicles.

Law enforcement objections

PLAN IV

One plate, reflectorized beading on embossed area only the same as used on current plates.

ADVANTAGES:

Dept. of Revenue - Same advantages as Plan I

Law enforcement - Same advantages as Plan I

Other - Bicentennial statement

Costs - Refer to Cost Analysis

DISADVANTAGES:

Law Enforcement - Same disadvantages as Plan III

Safety - Same disadvantages as Plan II

THE PRECEDING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

ATTACHMENT #1

The U. S. Department of Transportation has recognized the inadequacy of Alaska's motor vehicle registration records system as it applies to the standards established by the National Highway Safety Act of 1971. A grant of $54,375 has been received by the Alaska Department of Revenue to re-design its system to convert it from its present tape system to a disc based system for a more rapid access and retrieval of stored data.

A preliminary study of the existing system reflects numerous errors in the base information. These errors in the base information have been identified primarily as license numbers and vehicle serial numbers--the two basic means of identification of vehicles. Analysis of the reasons for the existing errors indicate three primary sources:

1. In converting from the manual system to the existing tape based computer system, the legibility of the source documents resulted in input errors.

2. The programming required to accommodate the unrelated series of license plate number combinations resulted in complex edit programs that reject correct input data and often accept incorrect data.

3. The number of license plate series has grown to 25 different combinations, each designating a class of vehicle. These series run from one numeral to seven numerals, to a combination of two letters and four numerals with some series duplicating others. No systematic method of assignment or designation of plate series to identify proper registration of vehicles for regulatory purposes exists. The development of a conceptual design for a more efficient system providing for rapid access and retrieval of stored data, without the capability of obtaining accurate and factual information limits the effectiveness of the project for which the grant was received.

OPERATIONAL PROBLEMS EXPERIENCED IN CURRENT PLATE NUMBERING SYSTEM

1. Partial license number inquiries into the existing Motor Vehicle system are accepted as valid numbers since the numbering series of 1 to 7 digits are all acceptable. Only when additional information such as the serial number and make is available, can the system verify the validity of the information inquiry.

2. Many applications with incorrect license number must now be processed through the entire work flow to be identified as "incorrect" due to the lack of planned designation of series of plates to classes of vehicles.

3. Complex edit programs now lend themselves to reject valid input data and upon occasions accepting incorrect data.

4. Clerical coding errors result from inability to readily identify the existing license plate designations to classes and types of vehicles.

5. Incorrect vehicle data input through generation of a "new record" results from "forcing" exceptions to program edits.

OPERATIONAL IMPROVEMENTS THROUGH A NEW PLATE YEAR

1. Applications or inquiries with partial license numbers can be identified at the first operation in the workflow, thus eliminating processing through the entire workflow. Six character plates will preclude attempted processing of work with partial license numbers.

2. Immediate identification of an incorrect license number can be made when the license number given designates a different class of vehicle.

3. More effective computer program edits without the existing complexities can be gained without the necessity of re-working and re-submitting applications.

4. Clerical errors in vehicle class coding can be materially reduced with the less complex license number designation system.

5. More effective controls can be gained to prevent the input of erroneous vehicle data into the motor vehicle system.

BENEFITS TO REGULATORY AGENCIES

1. Ready identification of the proper registration of vehicles. (Plates issued prior to mid 1973 provided no space for tabs. Indescriminate placement of validation tabs have distorted configuration of license numbers.)

2. Immediate identification of partial plate numbers.

3. Less complex method of "searching out" a valid license number when only a partial number is available for investigation.

MEMORANDUM State of Alaska

TO: Charles Pyles, Director
Division of Motor Vehicle
Department of Revenue

DATE: January 13, 1975

FILE NO:

TELEPHONE NO:

FROM: Dale G. Griggs, Asst. Director
Division of Data Processing
Department of Administration

SUBJECT: Motor Vehicle Plate Year

In our discussions of an On-line Motor Vehicle Registration and Title system for your division, I always assumed there would be a new plate year for 1976. The advantages of an On-line Data Processing system will be diminished if we must retain the numbering systems presently used in the Motor Vehicle file.

In an On-line system, many users are contending for the computer. We presently experience an average of 3,700 on-line transactions per day and this is expected to increase by one hundred percent by January, 1976. Sixty percent of all transactions are processed between the hours of 8:00 A.M. and 4:30 P.M. which means the computer will be processing approximately 5,000 transactions during the prime day shift hours.

Because of the high volume projected, we must make every On-line system as efficient as possible to prevent extreme degraduation of response time. If there is not a new plate year, we will have to remove the edits of the plate number versus the vehicle type code. There are presently extensive edits to insure the plate number is within a valid range for the type of vehicle. This will not be feasible in the projected On-line system and will result in some inaccuracies in the Motor Vehicle file.

The present plate numbers overlap which causes duplicate plate number For example, CB123 can be a passenger vehicle or a commercial bus. Duplicate numbers cause us considerable grief because we must use an additional identifier to insure the correct Motor Vehicle record is being accessed.

If a new plate year is granted for 1976, we will be able to store the plate number in six characters rather than seven, which will save 300,000 characters of on-line disk storage. It will require approximately 90,000,000 characters of on-line disk storage to store the Motor Vehicle file at a cost of approximately $1500.00 per month. Any savings in the amount of storage required can be significant.

The last area I want to mention is operator confusion. The present plate numbers vary from one character to seven characters, some with leading zeros, some without leading zeros. In a data processing application, the numbers entered must match exactly the numbers stored on the Motor Vehicle file. To a computer, the number A123 is not the same number as A00123 and the computer would not be ble to find the record on the file. Law Enfocement Agencies have had considerable difficulty when recording stolen vehicles because of the various numbering systems.

DGG/jg

Budgeting be requested for replacement of all outstanding license plates, other than personalized plates and those assigned to individuals, in the 1976 registration year and a 6 digit license plate numbering system be adopted to provide for a permanent numbering system.

Reasons:

The existing series of license plates have been in existence since 1970 with design and numbering format that has resulted in 25 varied designations of license plates, Exhibit J. Duplication in the designation of identical license numbers, namely passenger vehicles and commercial buses, passenger vehicles and farm trucks, passenger vehicles and for-hire vehicles, motor cycles, passenger vehicle and trucks, etc., have resulted. The varied designations of license plates have been identified as one of the major obstacles in the preparation of applications for data processing. A review of applications prior to input and those applications rejected in the machine edits reflect errors in license number or class code to be the major error factor requiring extensive rework.

Recommended Series:

000AAA - 999ZZZ	Passenger vehicles
0000AA - 9999ZZ	Trucks
00000A - 99999Z	Trailers
000000 - 999999	Motorcycles

The reverse order of the usual alpha-numeric order is recommended to avoid duplication of plates currently in use.

Distinctive license plates for amateur radio, legislators, historic vehicles, dealers, personalized plates, consuls and judicial plates which are limited in number would be manufactured in a design and a series other than recommended above.

Taxicabs, commercial busses, Sunday School busses could be issued a given series within the passenger plates group, ie., 000ZZA - 999ZZZ. The same could apply to ATC trucks, commercial trailers, etc., 0000ZA to 9999ZZ for ATC trucks. Exempt vehicles might be assigned the series starting with 000XXA.

The recommended series of licenses will provide for a permanent license numbering system which will enable the division to establish ease of assignment and accountability for such plates.

The series will provide for the greatest number of license registrations without duplication or a change in the design. The alphabetic letters "I", "O", and "Q" should not be used in the third position since such letters can readily be misinterpreted as the numerals 1 or 0. In the

manufacturing of th. automobile license plate series, objectionable combinations such as ASS, GOD, PIG, DUM, NUT, CAD, should not be used. (Studies made of such objectionable combinations are available from states now using the numbering series.)

The use of a combination of 6 digits, letters and numerals, will provide for a style of lettering or numbering and size best suited for ease of legibility and identification.

A tangent benefit that can be derived from this recommendation is that it will provide for identifying incomplete license numbers when registering and processing vehicles by means of the data processing systems.

After eliminating the use of the letters, "I", "O", and "Q" in the third position of license plate series, the gross number of different combinations available for each series would be:

Passenger	3 Numerals and 3 Letters	15,353,000
Truck	2 Numerals and 4 Letters	5,290,000
Trailers	1 Numeral and 5 Letters	2,300,000
Motorcycles	6 Numerals	1,000,000

By reversing the order and by using the numerals first, followed by the alphabetic letters, except in the motorcycle series, the number of license plate combinations without duplication could be doubled. (Refer to AAMVA publication, "A Uniform Numbering System.)

PASSENGER
1. FIVE (5) NUMERIC
   1 - 99999
2. ONE (1) ALPHA, FOUR (4) NUMERIC
   A1 - A9999
   B1 - B9999
   C1 - C9999
   D1 - D9999
   E1 - E9999
   G1 - G9999
   K1 - K9999
   L1 - L9999
   M1 - M9999

LIGHT TRUCKS
1. TWO (2) ALPHA AND FROM ONE (1) TO FIVE (5) NUMERIC
   LT1 - 99999

   IT IS POSSIBLE FOR LIGHT TRUCKS (PICKUPS) TO DISPLAY TRUCK PLATES, WHICH IS LEGAL

TRUCK
1. TWO (2) ALPHA AND FROM ONE (1) TO FIVE (5) NUMERIC
   TK1 - 99999

MOTORCYCLE
1. TWO (2) ALPHA AND FROM ONE (1) TO FIVE (5) NUMERIC
   MC1 - 99999

TRAILER (SMALL, ie. CAMP BOAT ETC.)
1. TWO ALPHA AND FROM ONE (1) TO FIVE (5) NUMERIC
   TR1 - 99999

COMMERCIAL TRAILER (LARGE ie SEMI ETC)
1. TWO ALPHA AND FROM ONE (1) TO FOUR (4) NUMERIC
   CT1 - 9999

FARM
1. ONE (1) ALPHA AND FROM ONE (1) TO FOUR (4) NUMERIC
   F1 - 9999

OFF HIGHWAY
1. TWO (2) ALPHA AND FROM ONE (1) TO FOUR (4) NUMERIC
   OH1 - 9999

FOR HIRE
1. TWO (2) ALPHA AND FROM ONE (1) TO FOUR (4) NUMERIC
   FH1 - 9999

COMMERCIAL BUS
1. TWO (2) ALPHA AND FROM ONE (1) TO FOUR (4) NUMERIC
   CB1 - 9999

GOVERNMENT EXEMPT
1. ONE (1) ALPHA AND FROM ONE (1) TO FOUR (4) NUMERIC
   X1 - 9999

SUNDAY SCHOOL BUS
1. TWO (2) ALPHA AND FROM ONE (1) TO FOUR (4) NUMERIC
   SS1 - 9999

PERSONALIZED
1. ALL LETTER OR COMBINATION OF ALPHA AND NUMERIC NOT TO EXCEED SIX (6) DIGITS

CALL LETTER (HAM RADIO)
1. KL7 DESIGNATES ALASKA FOLLOWING THE KL7 CAN BE FROM ONE (1) TO THREE (3) ALPHA.

TEMP
1. FROM ONE (1) TO THREE (3) NUMERICAL. NOT FOR HIGHWAY USE.

DEALER
1. TWO (2) ALPHA AND FROM TWO (2) TO FIVE (5) NUMERIC
   1. 1ST NUMBER OR NUMBERS AND 1ST DASH DESIGNATES DEALER TO WHOM ASSIGNED.

THE FOLLOWING CHANGE IN NUMBERING SYSTEM WILL BEGIN TO BE PHASED IN IN 1974. COLOR: GOLD BACKGROUND WITH BLUE NUMERALS AND ALPHA. EXCEPT: TRUCKS AND BUSES REQUIRING WEIGHT FEES WILL HAVE Black BACKGROUND WITH Silver NUMERALS AND ALPHA.

PASSENGER
1. TWO (2) ALPHA AND THREE (3) NUMERIC BEGINNING WITH AA 100

LIGHT TRUCK
1. TRUCKS AND BUSSES NOT REQUIRING WEIGHT FEES
   TWO (2) ALPHA AND FOUR (4) NUMERIC BEGINNING WITH AA-1000

TRUCKS AND BUSSES REQUIRING WEIGHT FEES
1. TWO (2) ALPHA AND FOUR (4) NUMERIC BEGINNING WITH HA-1000
   COLOR: Black BACKGROUND WITH Silver LETTERS AND NUMERALS

TRAILER (SMALL) (CAMP, BOAT, UTILITY, ETC.)
1. ONE (1) ALPHA AND FIVE (5) NUMERIC BEGINNING WITH T-10000

COMMERCIAL TRAILER (LARGE) (SEMI, ETC.)
1. ONE (1) ALPHA AND FIVE (5) NUMERIC BEGINNING WITH C-10000

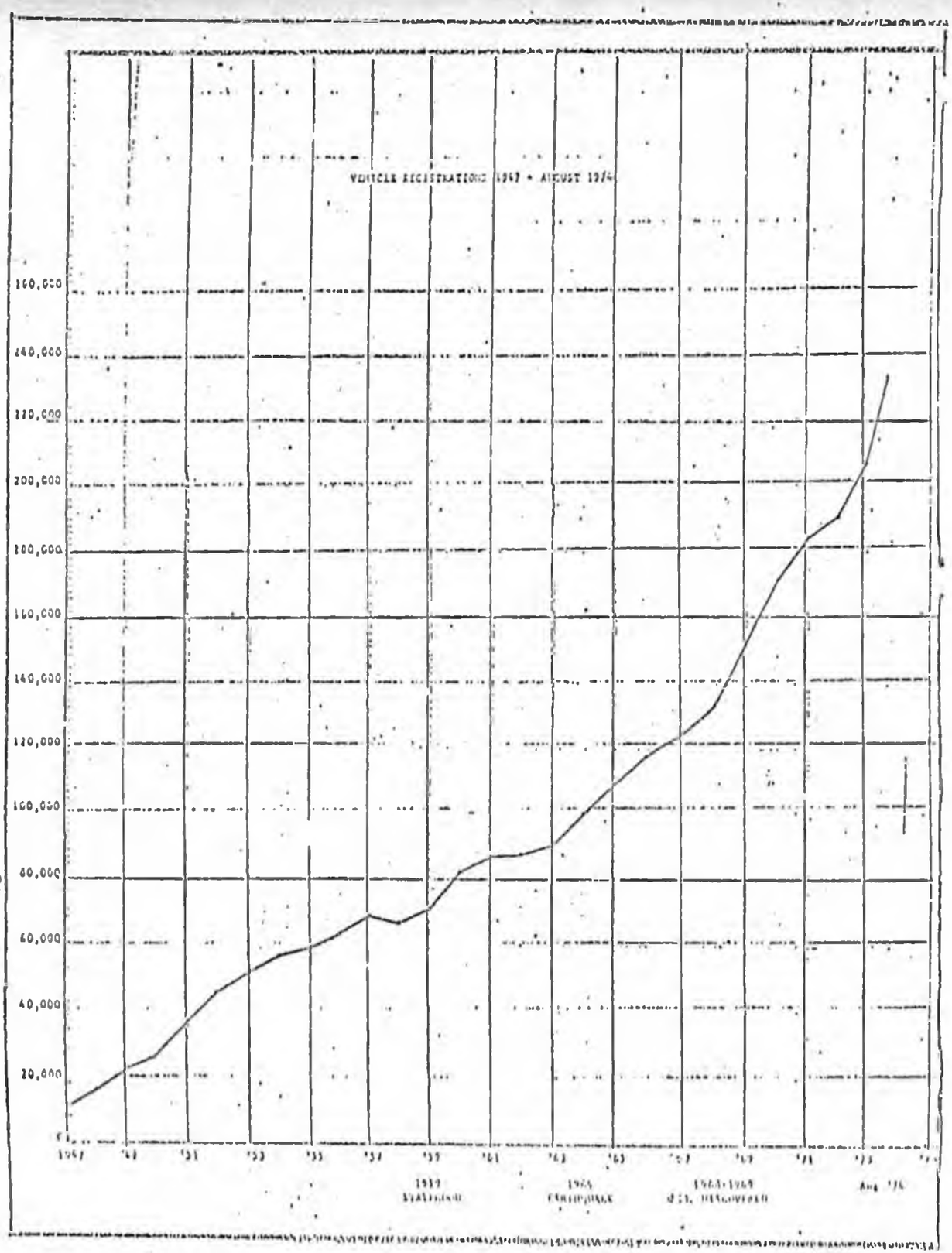
MOTORCYCLE
1. ONE (1) ALPHA AND FIVE (5) NUMERIC BEGINNING WITH M27-001

FOR HIRE, FARM, OFF HIGHWAY, SUNDAY SCHOOL BUS
1. TWO (2) ALPHA AND FOUR (4) NUMERIC BEGINNING WITH ZA-1000

GOVERNMENT EXEMPT
1. TWO (2) ALPHA AND FOUR (4) NUMERIC BEGINNING WITH XA-1000

NO CHANGE IN THE FOLLOWING: PERSONALIZED
CALL LETTER
HISTORICAL
DEALER

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.



VEHICLE
REGISTRATION
1947 - AUG. 1974

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Sincerely,

Charles G. Anderson
Chief of Police

CGA/JL/amo

FISCAL NOTE

First Session - Ninth Legislature

I. REQUEST

Bill No. HB 216

Title: Motor Vehicle Licenses

Requested by: House Commerce Committee Date: March 6, 1975

Return Date Requested: March 6, 1975

Agency: Revenue Program: Motor Vehicle

II. FISCAL DETAIL

Budget Request Unit(s) Affected:

A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 75	FY 76	FY 77	FY 78	FY 79	FY 80
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL		487.9	185.0	213.0	245.0	282.0
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		487.9	185.0	213.0	245.0	282.0

B. FUNDING: (Thousands of dollars)

GENERAL FUND		487.9	185.0	213.0	245.0	282.0
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	/	/	/	/	/	/
MAN MONTHS (P./T.)	/	/	/	/	/	/

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached analysis.

IV. ATTACHMENTS

See attached comments.

V. DATE: March 6, 1975 PREPARED BY: P. A. Wall

Director
Administrative Services

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

ADDITIONAL CONTRACTUAL COST:

260,000 plates at $1.65	429.0
Postage over and above normal request est. 25% of full plate distribution 25% X 260,000 X $.40 each (3rd class)	30.0
Freight drop shipments	6.0
EDP system analysis 3 months	9.9
EDP programming 6 months	11.8
Supplies	1.2
TOTAL	487.9

EDP costs include procedures and computer program revisions to provide for processing the new fee schedules and assignment of plate number series.

ADDITIONAL COST vs. ADDITIONAL INCOME:

	76	77	78	79	80
Income	2366.0	2603.0	2863.0	3149.0	3464.0
Cost	487.9	185.0	213.0	245.0	282.0
Difference	1878.1	2418.0	2650.0	2904.0	3182.0

10% growth in license plates assumed after impact year 1975.
15% cost increase for inflation assumed each year.

Reduction of cost in FY 75 represents difference between full plate year and renewal with validation tabs and supplemental plate issue for new registrations.

V. DATE: March 6, 1975 PREPARED BY: P. A. Wall
Director
Administrative Services

Original: Legislative Finance
Budget and Management

COMMENTS:

Line 12, page 1 contains a plate issue year of 1972. The current plate issue began in 1970. The year should probably be 1976 with the assumption that the department will implement an entire new issue if the required funds are appropriated.

The department would prefer not to include commercial vehicles in the rate increase this year. Alaska commercial fees are considerably below the western states average. We are planning to recommend an equitable commercial fee structure to the 1976 Legislature. The fiscal effect of deleting the commercial vehicle increase (line 23, page 1 thru line 7, page 2) is a decrease in anticipated income of $216,750 (21,675 commercial vehicles X $10).

Except for the inclusion of commercial vehicles, the department supports HB 216.

V. DATE: March 6, 1975 PREPARED BY: P. A. Wall
Director
Administrative Services

Budgeting be requested for replacement of all outstanding license plates, other than personalized plates and those assigned to individuals, in the 1976 registration year and a 6 digit license plate numbering system be adopted to provide for a permanent numbering system.

Reasons:

The existing series of license plates have been in existence since 1970 with design and numbering format that has resulted in 25 varied designations of license plates, Exhibit J. Duplication in the designation of identical license numbers, namely passenger vehicles and commercial buses, passenger vehicles and farm trucks, passenger vehicles and for-hire vehicles, motor cycles, passenger vehicle and trucks, etc., have resulted. The varied designations of license plates have been identified as one of the major obstacles in the preparation of applications for data processing. A review of applications prior to input and those applications rejected in the machine edits reflect errors in license number or class code to be the major error factor requiring extensive rework.

Recommended Series:

000AAA - 999ZZZ	Passenger vehicles
0000AA - 9999ZZ	Trucks
00000A - 99999Z	Trailers
000000 - 999999	Motorcycles

The reverse order of the usual alpha-numeric order is recommended to avoid duplication of plates currently in use.

Distinctive license plates for amateur radio, legislators, historic vehicles, dealers, personalized plates, consuls and judicial plates which are limited in number would be manufactured in a design and a series other than recommended above.

Taxicabs, commercial busses, Sunday School busses could be issued a given series within the passenger plates group, ie., 000ZZA - 999ZZZ. The same could apply to ATC trucks, commercial trailers, etc., 0000ZA to 9999ZZ for ATC trucks. Exempt vehicles might be assigned the series starting with 000XXA.

The recommended series of licenses will provide for a permanent license numbering system which will enable the division to establish ease of assignment and accountability for such plates.

The series will provide for the greatest number of license registrations without duplication or a change in the design. The alphabetic letters "I", "O", and "Q" should not be used in the third position since such letters can readily be misinterpreted as the numerals 1 or 0. In the

manufacturing of U. automobile license plate series, objectionable combinations such as ASS, GOD, PIG, DUM, NUT, CAD, should not be used. (Studies made of such objectionable combinations are available from states now using the numbering series.)

The use of a combination of 6 digits, letters and numerals, will provide for a style of lettering or numbering and size best suited for ease of legibility and identification.

A tangent benefit that can be derived from this recommendation is that it will provide for identifying incomplete license numbers when registering and processing vehicles by means of the data processing systems.

After eliminating the use of the letters, "I", "O", and "Q" in the third position of license plate series, the gross number of different combinations available for each series would be:

Passenger	3 Numerals and 3 Letters	15,353,000
Truck	2 Numerals and 4 Letters	5,290,000
Trailers	1 Numeral and 5 Letters	2,300,000
Motorcycles	6 Numerals	1,000,000

By reversing the order and by using the numerals first, followed by the alphabetic letters, except in the motorcycle series, the number of license plate combinations without duplication could be doubled. (Refer to AAMVA publication, "A Uniform Numbering System.)

PASSENGER
1. FIVE (5) NUMERIC
   1 - 99999
2. ONE (1) ALPHA, FOUR (4) NUMERIC
   A1 - A9999
   B1 - B9999
   C1 - C9999
   D1 - D9999
   E1 - E9999
   G1 - G9999
   K1 - K9999
   L1 - L9999
   M1 - M9999

LIGHT TRUCKS
1. TWO (2) ALPHA AND FROM ONE (1) TO FIVE (5) NUMERIC
   LT1 - 99999

   IT IS POSSIBLE FOR LIGHT TRUCKS (PICKUPS) TO DISPLAY TRUCK PLATES, WHICH IS LEGAL

TRUCK
1. TWO (2) ALPHA AND FROM ONE (1) TO FIVE (5) NUMERIC
   TK1 - 99999

MOTORCYCLE
1. TWO (2) ALPHA AND FROM ONE (1) TO FIVE (5) NUMERIC
   MC1 - 99999

TRAILER (SMALL, ie. CAMP BOAT ETC.)
1. TWO ALPHA AND FROM ONE (1) TO FIVE (5) NUMERIC
   TR1 - 99999

COMMERCIAL TRAILER (LARGE ie SEMI ETC)
1. TWO ALPHA AND FROM ONE (1) TO FOUR (4) NUMERIC
   CT1 - 9999

FARM
1. ONE (1) ALPHA AND FROM ONE (1) TO FOUR (4) NUMERIC
   F1 - 9999

OFF HIGHWAY
1. TWO (2) ALPHA AND FROM ONE (1) TO FOUR (4) NUMERIC
   OH1 - 9999

FOR HIRE
1. TWO (2) ALPHA AND FROM ONE (1) TO FOUR (4) NUMERIC
   FH1 - 9999

COMMERCIAL BUS
1. TWO (2) ALPHA AND FROM ONE (1) TO FOUR (4) NUMERIC
   CB1 - 9999

GOVERNMENT EXEMPT
1. ONE (1) ALPHA AND FROM ONE (1) TO FOUR (4) NUMERIC
   X1 - 9999

SUNDRY SCHOOL BUS
1. TWO (2) ALPHA AND FROM ONE (1) TO FOUR (4) NUMERIC
   SS1 - 9999

PERSONALIZED
1. ALL ALPHA OR COMBINATION OF ALPHA AND NUMERIC NOT TO EXCEED SIX (6) DIGITS

CB1 [illegible] (HAM RADIO)
1. NOT DISTINGUISHED ALASKA FOLLOWING THE KL7 CAN BE FROM ONE (1) TO THREE (3) ALPHA.

[illegible]
1. FROM ONE (1) TO THREE (3) NUMERICAL. NOT FOR HIGHWAY USE.

DEALER
1. TWO ALPHA AND FROM TWO (2) TO FIVE (5) NUMERIC
   DL1 - [illegible] NUMBER OR NUMBERS LETTER OR BASH DESIGNATES DEALER TO WHOM ASSIGNED.

THE FOLLOWING CHANGE IN NUMBERING SYSTEM WILL BEGIN TO BE PHASED IN IN 1974. COLOR: GOLD BACKGROUND WITH BLUE NUMERALS AND ALPHA. EXCEPT: TRUCKS AND BUSES REQUIRING WEIGHT FEES WILL HAVE Black BACKGROUND WITH Silver NUMERALS AND ALPHA.

PASSENGER
1. TWO (2) ALPHA AND THREE (3) NUMERIC BEGINNING WITH AA 100

LIGHT TRUCK
1. TRUCKS AND BUSSES NOT REQUIRING WEIGHT FEES
   TWO (2) ALPHA AND FOUR (4) NUMERIC BEGINNING WITH AA-1000

TRUCKS AND BUSSES REQUIRING WEIGHT FEES
1. TWO (2) ALPHA AND FOUR (4) NUMERIC BEGINNING WITH MA-1000
   COLOR: Black BACKGROUND WITH Silver LETTERS AND NUMERALS

TRAILER (SMALL) (CAMP, BOAT, UTILITY, ETC.)
1. ONE (1) ALPHA AND FIVE (5) NUMERIC BEGINNING WITH T-10000

COMMERCIAL TRAILER (LARGE) (SEMI, ETC.)
1. ONE (1) ALPHA AND FIVE (5) NUMERIC BEGINNING WITH C-10000

MOTORCYCLE
1. ONE (1) ALPHA AND FIVE (5) NUMERIC BEGINNING WITH M27-001

FOR HIRE, FARM, OFF HIGHWAY, SUNDAY SCHOOL BUS
1. TWO (2) ALPHA AND FOUR (4) NUMERIC BEGINNING WITH ZA-1000

GOVERNMENT EXEMPT
1. TWO (2) ALPHA AND FOUR (4) NUMERIC BEGINNING WITH XA-1000

NO CHANGE IN THE FOLLOWING: PERSONALIZED
CALL LETTER
HISTORICAL
DEALER

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

LOCATION	Jan. thru Nov. 1973	Jan. thru Nov. 1974	DIFFERENCE
ANCHORAGE	127,171	154,298	27,127
FAIRBANKS	31,990	39,952	7,962
JUNEAU	9,079	9,917	838
KETCHIKAN	6,190	7,586	1,396
NOME	747	787	40
SITKA	2,761	2,755	(6)
SEATTLE		699	699
HAINES	937	1,318	381
PETERSBURG	1,138	1,691	553
SKAGWAY	221	492	271
BRUHA (8231) included in Fbx.			
CORDOVA	793	1,047	254
BELLINGHAM	307	383	76
GLENNALLEN	1,090	956	(134)
HOMER	1,931	2,023	92
KASILOF (closed)	20		(20)
KENAI	5,885	5,543	(342)
KODIAK	4,479	4,768	289
KOTZEBUE		85	85
PALMER	5,266	6,132	866
[illegible]ARD	822	1,328	506
VALDEZ	592	963	371
SOLDOTNA		2,223	2,223
BETHEL	273	395	122
DELTA JUNCTION	1,553	1,614	61
NENANA	300	613	313
TOK	908	847	(61)
WRANGELL(closed)	719		(719)
WASILLA (closed)	14		(14)
	205,186	248,415 *	43,229

21% Increase

* 248,415 Registration/Renewal count plus
35,125 No-Charge Transfer Registrations
equal 283,540 Total Registrations issued.

THE PRECEDING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

JAMES P. WELLINGTON
COMMISSIONER

DIVISION OF STATE TROOPERS

P.O. Box 6188 Annex
Anchorage, AK 99502

October 28, 1974

Kenneth Y Simpson, Registrar
Department of Revenue
Motor Vehicle Section
509 West Third Avenue
Anchorage, Alaska 99501

Re: License Plates

Dear Mr. Simpson:

I would support any move for a new plate-year as being in the best interests of law enforcement. In my view, the license plate upon a motor vehicle can serve three purposes: to identify individual vehicles for the purposes of law enforcement and theft recovery; to confirm that the annual license fee has been paid, and that it was appropriate to the proper vehicle classification; and a retro-reflective license plate can serve as a safety feature for a disabled vehicle.

The present license plate is entirely inadequate in all regards. There is a bewildering display of letters, numbers, styles, colors, words, and duplications. The blue-on-yellow plate does not have bright color contrast for legibility. The attempt to retro-reflect the number/letter display was a cost saving tradeoff that failed any benefit. The black and white commercial plate, and the yellow and blue plate, cannot be quickly read, or identified, under any circumstances short of near perfect conditions. There are no surfaces left on the plate to stick more annual tabs.

We need a good, clean, well contrasted plate with large letter/number display, hopefully entirely reflective, that is distinctive to classification, generally uniform to national trends, and designed for future annual tab additions.

We do not believe a single plate is sufficient. The only logical place to hang a single plate is upon the rear of the vehicle. In traffic, an officer is then only able to identify the vehicle directly ahead of him. All on-coming identification is disguised.

I believe that I have outlined the above recommendations for at least the past four years, sometimes in greater detail and with appropriate references.

Sincerely,

H J Sydnam

Captain Harold J. Sydnam
Assistant to the Director

HJS:em

cc Colonel M. E. Dankworth
Director

CITY OF ANCHORAGE ALASKA

International
polar air crossroads of the world

POST OFFICE BOX 400
ANCHORAGE, ALASKA
99510

November 19, 1974

Kenneth Simpson, Registrar
Department of Revenue
Motor Vehicle Section
509 West Third Avenue
Anchorage, Alaska 99501

RE: License Plates

Dear Sir:

A "plate year" issue of Alaska vehicle license plates in the near future could be of significant value to law enforcement and all citizens of our State.

Law enforcement's primary concern with license plates is the immediate means of vehicle identification they provide. Additional methods of checking vehicle identity are employed if the car or truck is stopped. However, the license plate remains as the first visible identifier. Accurate visual recognition of the plate is vital and the present alpha-numeric system, unfortunately, leads to greater possibility of error than some other established systesm.

Currently many Alaska plates are confusing because of the profusion of alpha-numeric prefixes which can be misread, since some alpha characters are almost identical in design to similar numerals. Many of these combinations would inadvertantly lead to the misconception that a truck plate was improperly affixed to a passenger vehicle.

The color combinations (and I doubt the necessity of more than one color scheme) presently in use are not sufficiently contrasting to enhance visibility. The reflective characters seem to be of minimal value -- only a perfectly maintained "new" plate having any meaningful reflectivity. The black and silver commercial plate is even less legible than the blue on yellow.

High color contrast, large characters in predictable quantities and locations through a standardized format, a fully reflectorized surface resistive to our peculiar weather conditions, and a high color contrast reflectorized annual validation tab are some elements that would provide a better license plate. Any of these factors would tend to eliminate the misreading of plates both by law enforcement personnel and private citizens, who often obtain license numbers of vehicles involved in incidents, accidents traffic offenses and crimes.

A reflectorized license plate is a valuable safety feature for a vehicle stalled on a roadway during hours of darkness. However, the present method of achieving a reflectorized surface is not compatible with existing conditions. The reflector surface is extremely rough and seems almost porous, allowing dust, mud, ice and snow to strongly adhere. It seems that a "slick" or at least smoother surface would be easier to clean and might remain clean longer.

A reflectorized high color contrast annual validation tab, serially coded to a valid registration certificate, would be a good system for this necessary item. One tab, affixed to the rear plate in a specific location, would eliminate the current practice of "tab splitting" and assist law enforcement personnel in determining if a plate was valid. Currently it is often difficult to determine if a plate has been validated because the tab is not reflectorized and is not affixed to all plates in the same location.

The issuance of plates to a particular owner who will retain the plates would eliminate the swapping of plates in large, as well as further requiring the owner of a vehicle who sells a vehicle to immediately go to the Department of Motor Vehicles and have the vehicle re-registered and still retain his plates. When the owner purchases a new vehicle, he can re-register his new vehicle using the plates that were retained by him. At least the law enforcement agencies would have current information on who the owner of the plates are at the time a violation was committed.

Sincerely,

Charles G. Anderson
Chief of Police

CGA/JL/amo

STATE
of ALASKA

MEMORANDUM

TO: Charles A. Smith
Federal Projects Coordinator
Alaska Traffic Safety Bureau

DATE : February 28, 1975

FROM: Dennis Robertson
Consultant

SUBJECT: HB 316

Since this bill is focused on motor vehicle licenses, I called Ken Simpson (Registrar) to ascertain MVD's views on this bill as approved draft legislation is being finalized to bring MVD into Public Safety. The following are his views, in which I concur and to which I have no additions:

To alter the wording in AS 28.10.135 to require fully reflectorized plates will principally benefit law enforcement, but will require issuance of a new plate to each person presently having plates. Ken estimates costs at $3/4 million, and will prepare a fiscal note on this (and other bills) and will send us copies.

On the second page of the bill, amendment is made to AS 28.10.200(b)(8), increasing fees to be levied, as is done with other fees in Sec. 200(b). However, Ken reports serious computor and definition problems with respect to "use" of pick-up trucks. If commercially used, the fee in (b)(8) applies; otherwise pick-up owners pay a different amount under (b)(4). Ken strongly (and preferably) recommends deletion of (b)(8) altogether; or striking any reference to commercial use in (b)(8) if that paragraph is retained.

Ken has another problem, again with the wording, in Sec. 360. He recommends deleting "Before operating or permitting --- on any highway" in lines 5 and 6 of page 3 of the bill (In effect, beginning the sect with, "The transferee shall present ---"). The wording problem here es with respect to operation on highways and the 20-day limitation on transfer imposed on line 16. People will attempt to evade payment of the required fees by saying, "I'm not operating on a highway" etc. Thus, the intent of the section is circumvented, and consistent and equal enforcement is not possible. Ken also recommends that the 20-day limitation be reduced to 10 days.

cc: Ken Simpson
Motor Vehicle Division (Anchorage)

HB

222

HB 222

Tape #	Date
16	
17	3/24
18	3/25
19	3/26
20	3/26

"An Act relating to prostitution."

COMMITTEE REPORT

3/19/75 HOUSE JUDICIARY

Mr. Speaker: Date 3/26/75

The Committee on Commerce has had SENS 222 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

L. S. Stadler - Dr Kaus		

Members NOT concurring in the Majority report:

_____ recommends: Do Not Pass

_____ recommends: DO NOT PASS

_____ recommends: DO NOT PASS

_____ recommends:

_____ recommends:

L. S. Stadler Chairman

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER / POUCH N — STATE CAPITOL
JUNEAU 99801

March 20, 1975

The Honorable Bob Bradley
Representative
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Senator Bradley:

In response to your letter of March 17, 1975, we are attaching a copy of a report which was done on prostitution activities in the state. Listed below are answers to the specific questions which you ask in your letter, and broken down into three areas, Fairbanks, Anchorage and statewide. Please note that due to the short length of time which we had to get these statistics, the statistical figures are rather tentative.

ANCHORAGE

1. Hours spent enforcing the prostitution laws in Anchorage
   A. 528 investigative man hours per month
   B. 960 uniform man hours for street suppression of prostitution related activities
   C. 48 undercover man hours per month
   D. Total: 1536 man hours per month

2. Estimate of the number of prostitutes in Anchorage
   A. 25 street prostitutes
   B. 150 prostitutes working in massage parlors
   C. 40 prostitutes working in hotels
   D. Total: 215 prostitutes working in the Anchorage area

3. Man hours and costs of holding prostitutes for Anchorage
   A. $10,500 per month in police wages expended
   B. $870 for police vehicles (3 investigative units) per month
   C. $2,088 city/state jail costs
   D. 327 persons arrested for prostitution and related arrests in 1974 by Anchorage Police Department

ANCHORAGE (continued)

4. Cost of court proceedings against prostitution in Anchorage
   A. approximately $300 per trial in court costs
   B. approximately $100 per guilty plea in court cases
   C. $60,000 court costs related to prostitution including lawyers, defense and prosecution, and the court for 1974

FAIRBANKS

1. Hours spent enforcing the prostitution laws in Fairbanks
   A. 84 investigative man hours per month

2. Estimate of the number of prostitutes in Fairbanks
   A. 30 street and hotel prostitutes
   B. 6 prostitutes in massage parlors

3. Man hours and costs of holding prostitutes for Fairbanks
   A. 15 man hours per month
   B. $1,800 per month for police wages and jail personnel

4. Cost of court proceedings against prostitution in Fairbanks
   A. Approximately $300 per trial in court costs
   B. Approximately $100 per guilty plea in court costs

The following estimates are concerning areas outside the cities of Fairbanks and Anchorage:

1. Hours spent enforcing the prostitution laws
   A. 10 hours investigative time per month

2. Estimate of the number of prostitutes
   A. 25 working prostitutes

3. Man hours and costs of holding prostitutes
   A. Amount too small to identify

4. Cost of court proceedings against prostitution
   A. Amount too small to identify

For your information, there have been very few prostitution cases in our investigations outside the cities of Anchorage and Fairbanks. Recently, we have made a couple of prostitution cases in the Glennallen area and I expect during the early spring and summer we will have increased prostitution activity and subsequent enforcement along the pipeline corridor.

The majority of the known prostitutes have both felony and misdemeanor conviction records. As an example, the last five prostitutes arrested in Fairbanks had felony convictions such as armed robbery, assault with a dangerous weapon, possession of heroin and felony assault. The problem of prostitution is much greater than just the issue of prostitution. These women are criminals, dope addicts and will do anything to make an illegal dollar. The records establish this fact.

We hope that this information will be of some help to you.

Sincerely,

C. A. Weberg
Deputy Commissioner

Enclosures

DR. MICHAEL BEIRNE
PHYSICIAN AND PATHOLOGIST

TELEPHONE (907) 272-1445

MEDICAL ARTS BUILDING
207 EAST NORTHERN LIGHTS BLVD. • ANCHORAGE, ALASKA 99503

File - H.B. 222

March 13, 1975

The Honorable Bob Bradley
Alaska State House of Representatives
Pouch "V" State Capitol Building
Juneau, Alaska 99801

Dear Bob:

Your recent introduction of legislation legalizing prostitution is I believe very good and proper. I am not sure that I buy the gambling laws entirely, but certainly believe that some gambling should be quite permissible and at the individual level of responsibility.

I hope you are enjoying your first term in the legislature, and especially since you hold chairmanship of the commerce committee. I expect to be down in Juneau again soon to visit. I certainly enjoyed the inaugural events and the first week of the session, but have been unable to return since.

By the way, I am sure that you know that Willard Bowman introduced similar legislation last year, and I am sure he will still be pushing for the same this year.

Sincerely,

Mike Beirne

MFB:bp

Dr. Mike Beirne

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

File with Bills

12050 FAIRBANKS ALASKA 30 03-11 400P ADI

PMS REP BOB BRADLEY

1975 MAR 11 PM 7 44

POUCH V

JUN

DEAR REPRESENTATIVE BRADLEY THE QPP PEOPLE IN THE FAIRBANKS CHAPTER OF NOW WISH TO THANK YOU FOR THE INTRODUCTION OF HB222 WE ARE URGING OUR LEGISLATORS TO SUPPORT THIS BILL

BONNIE MCCORQUODALE

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER / POUCH S — JUNEAU 99801

March 19, 1975

The Honorable Bob Bradley
Chairman
House Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99801

Dear Mr. Bradley:

Thank you for your letter of March 17 requesting information on possible means of taxing prostitution in the State.

The income received from carrying on the business of prostitution, like any other business income, is subject to the Alaska Net Income Tax. A business license must be obtained and the gross receipts tax is also applicable. If the business operation has employees, then it is necessary to pay withholding taxes and the unemployment taxes.

Of course, the practical problem here is that since these activities are currently illegal many of the people engaged in this business do not file business returns or conduct their operations in a businesslike manner. We have received returns from some prostitutes indicating their business income. In order to get a good handle on the taxes mentioned above, however, it would be preferable to see these people operating in an environment where their business activities were considered legal and where they were subject to some regulatory controls. However, that is not to say that we endorse the concept. You may be aware that the State of Nevada has licensed houses of prostitution which are operated like a business, pay the required taxes and are subject to strict regulations regarding solicitation of business and health standards.

It is also possible that a steep licensing fee might be required in order to engage in business. This would be justified by the costs of setting up the necessary regulatory machinery. Such a fee could be structured according to the volume of business activity during the prior year.

If we can answer any further questions, please don't hesitate to contact us.

Sincerely,

Sterling Gallagher
Commissioner

SG: gd

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER / POUCH S — JUNEAU 99801

March 21, 1975

The Honorable Bob Bradley, Chairman
House Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Bradley:

You have asked us as a follow-up on House Bill 222 to make some estimates on the projected increases in revenues that we might anticipate as a result of passage of this bill. As indicated in Commissioner Gallagher's letter of March 19, the activities of a prostitute are presently subject to tax under the Net Income Tax and the Gross Receipts Tax. As the Commissioner also indicated, our compliance in these areas is very poor. Accordingly, we do not have enough data to really establish an income profile for the business of prostitution Therefore, the estimates below are based on the letter of March 20 from Deputy Commissioner Weberg of the Department of Public Safety to you, and some guesses on our part of the type and extent of expenses that might be incurred.

The estimates for FY 76 have been projected assuming a 50% increase during remaining pipeline construction years of 77 and 78 with a 30% reduction thereafter.

The estimates are as follows:

Increased Revenues
($000 Omitted)

	FY 76	FY 77	FY 78	FY 79	FY 80
Income Tax	$732.0	$1,098.0	$1,098.0	$770.0	$770.0
Gross Receipts	34.5	51.8	51.8	36.2	36.2
Total Increases	$766.5	$1,149.8	$1,149.8	$806.2	$806.2

The cost of administering our taxes under this bill would be minimal since the regulation and control function would be in the Department of Commerce. Our approach would be to have an auditor check compliance against the Commerce listing of registered prostitutes and to review the books and records of selected prostitutes each year. We estimate that one auditor at a cost of about $20,000 per year could handle this job. At the present time, of course, obtaining compliance with our tax laws from this activity would be prohibitive in cost since the identity of many prostitutes is not known to us.

Sincerely,

Fred Boetsch
Deputy Commissioner, Taxation

FPB: gd

ALASKA

MEMORANDUM

TO: Donald K. Freedman, M.D., M.P.H.
Director, Div. of Public Health
Juneau -- Pouch H 06

DATE : March 21, 1975

FROM: Jerry D. Crowe JDC
Public Health Advisor
Sec. of Communicable Disease Control

SUBJECT: Venereal Disease Report

Attached is a report of the number of cases of venereal disease listed for the State of Alaska. Of this total, a breakdown is listed for Anchorage and Fairbanks.

We currently do not have any means of determining the number of cases of venereal disease that are directly related to prostitution activities. Our best estimate is that a maximum of one to two percent (1-2%) of the total reported cases are related in any way to prostitution activities.

JDC:jms
Attachment

Dr Freedman
Director, Public Health

465-3090

CASES OF REPORTED VENEREAL DISEASE

STATE OF ALASKA

SYPHILIS CASES	124	(including military) TOTAL
Civilian:	10	primary & secondary
	15	early latent
Military:	1	primary & secondary
GONORRHEA CASES	3261	(including military) TOTAL
Civilian only:	2983	

Gonorrhea (excluding military)

Male	60.78%	1813 cases
Female	39.22%	1170 cases

ANCHORAGE (civilian only)			(military)
SYPHILIS	72	TOTAL	11 TOTAL
	4	primary & secondary	1
	4	early latent	0
	61	late latent	9
	3	congenital	1
GONORRHEA	1284	TOTAL	225 TOTAL
Male	743		
Female	541		

FAIRBANKS (civilian only)			(military)
SYPHILIS	12	TOTAL	0 TOTAL
	4	primary & secondary	
	0	early latent	
	8	late latent	
	0	congenital	
GONORRHEA	251	TOTAL	39 TOTAL
Male	174		
Female	77		

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF COMMERCE

OFFICE OF THE COMMISSIONER / POUCH D — JUNEAU 99801

March 24, 1975

The Honorable Bob Bradley
Alaska State House of Representatives
Pouch "V" State Capitol Building
Juneau, Alaska 99811

Dear Representative Bradley:

Per your request for written comments from this department regarding HB 222 we have assembled the following information:

1. Our investigations revealed that Nevada is the only state having prostitution under local option. In the case of the Nevada statutes, it's really an absence of not prohibiting prostitution rather than allowing it. In conversations with Nevada state officials, we find that there, in addition, to there not being any law regarding prostitution, there are also no regulations for even monitoring of same on the state level. These functions are undertaken within the political subdivision that has opted for it.

2. That leads me to two comments, both well within the arena of public administration and not into the merits or demerits of legalized prostitution:
   a. As the intent of the bill appears to be local option, then one could argue that health standards and licensing regulations should be drawn up and enforced by that political subdivision that has opted for the ordinance.
   b. If the wisdom of the logic in paragraph 2(a) above does not prevail, then good public administrative practices would dictate that in an optional situation only one state department need be involved; and following this line a bit further it would appear that the drawing up of regulations and licensing procedures could be undertaken in a cheaper and more efficient manner under the Department of Health and Social Services rather than having the Department of Commerce learn and implement the routine of inspection and health regulations.

Sincerely yours,

Langhorne A. Motley
Commissioner

ALASKA

MEMORANDUM

TO: Donald K. Freedman, M.D., M.P.H.
Director, Div. of Public Health
Juneau -- Pouch H 06

DATE : March 21, 1975

FROM: Jerry D. Crowe JDC

SUBJECT: Venereal Disease Report

Public Health Advisor
Sec. of Communicable Disease Control

Attached is a report of the number of cases of venereal disease listed for the State of Alaska. Of this total, a breakdown is listed for Anchorage and Fairbanks.

We currently do not have any means of determining the number of cases of venereal disease that are directly related to prostitution activities. Our best estimate is that a maximum of one to two percent (1-2%) of the total reported cases are related in any way to prostitution activities.

JDC:jms
Attachment

Dr. Freedman
Director, Public Health

465-3070

CASES OF REPORTED VENEREAL DISEASE

STATE OF ALASKA

SYPHILIS CASES 124 (including military) TOTAL

Civilian: 10 primary & secondary
15 early latent

Military: 1 primary & secondary

GONORRHEA CASES 3261 (including military) TOTAL

Civilian only: 2983

Gonorrhea (excluding military)

Male	60.78%	1813 cases
Female	39.22%	1170 cases

ANCHORAGE (civilian only) (military)

SYPHILIS	72 TOTAL	11 TOTAL
	4 primary & secondary	1
	4 early latent	0
	61 late latent	9
	3 congenital	1
GONORRHEA	1284 TOTAL	225 TOTAL
Male	743	
Female	541	

FAIRBANKS (civilian only) (military)

SYPHILIS	12 TOTAL	0 TOTAL
	4 primary & secondary	
	0 early latent	
	8 late latent	
	0 congenital	
GONORRHEA	251 TOTAL	39 TOTAL
Male	174	
Female	77	

BOB BRADLEY

state house

CHAIRMAN, COMMERCE COMMITTEE
POUCH V
JUNEAU, ALASKA 99811
465-3824

VICE CHAIRMAN, JUDICIARY
601 N. BRAGAW
ANCHORAGE, ALASKA 99504
272-0275

March 19, 1975

Mr. Avrum Gross
Attorney General
Juneau, Alaska

Dear Mr. Gross,

The House Commerce Committee is considering HB 222 "An Act relating to prostitution" on Monday March 24 at 8:00 a.m. Would you please make yourself available to testify at that time. Thank you for your cooperation.

Sincerely,

Bob Bradley

BB/mr

P.S. Could you get something in writing by Friday

BOB BRADLEY

state house

CHAIRMAN, COMMERCE COMMITTEE
POUCH V
JUNEAU, ALASKA 99811
465-3824

VICE CHAIRMAN, JUDICIARY
601 N. BRAGAW
ANCHORAGE, ALASKA 99504
272-0275

March 19, 1975

Commissioner Motley
Dept. of Commerce
Juneau, Alaska

Dear Commissioner,

The House Commerce Committee is considering HB 222 "An Act relating to Prostitution" on Monday March 24 at 8:00 a.m. Would you please review the bill and be prepared to testify at that time. Areas that may affect your department are licensing and taxation and the coordination of the several Departments which this bill affects. Thank you for your cooperation.

Sincerely,

Bob Bradley

BB/mr

P.S. Could you get something in writing by Friday.

March 17, 1975

Commissioner Valle
Department of Revenue.
Juneau, Alaska 99801

Dear Commissioner Gallagher.

[illegible] to [illegible] to [illegible] prostitution not only for control, but also [illegible] for the state. Could you please have your staff [illegible] avoid this that could be used to tax prostitution.

If possible I would like this information by Thursday afternoon March 20. Thank you for your assistance in this matter.

Sincerely,

Bob Bradley

BB/mm

June 17, 1975

Commissioner Williamson
Dept. of Health & Social Services
Juneau, Alaska 99801

Dear Commissioner Williamson,

In reference to S.B. 222 "An act relating to prostitution", I am interested in obtaining information that I can give a speech on the bill. I would appreciate your assistance in providing the following information:

1) The number of cases of venereal disease in the state and with a breakdown for Anchorage and Fairbanks.
2) The number of cases directly related to prostitution activity.
3) If prostitution is legalized at a local level the administration of it may be by your department to insure health standards are met as you are enforced.

Thank you for your help.

Sincerely,

Jo: Swallow

JS/sr

March 17, 1975

Richard L. Burton
Commissioner
Department of Public Safety
Pouch N
Juneau, Alaska 99811

Dear Commissioner Burton:

As sponsor of House Bill 222, "an act relating to prostitution," I am interested in gathering information on prostitution activity in the state. I would appreciate answers to the following questions.

1. How many man hours are spent enforcing the prostitution laws state wide? And a breakdown of hours, spent in enforcement in Anchorage and Fairbanks.

2. How many prostitutes are doing business in Alaska; and a breakdown of the number operating in Anchorage and Fairbanks.

3. The kind and number of crimes directly related to prostitution.

4. The man hours and cost of holding prostitutes state wide and a breakdown for Anchorage and Fairbankks

5. Cost of court procedings.

I would appreciate the information by Thursday, afternoon, March 20, if possible. Thank you for your assistance.

Very truly yours,

Bob Bradley

BB/khf

STATEMENT ON HB222

by

Most Reverend Francis T. Hurley
Bishop of Juneau

There is a growing public awareness of three moral issues presently being debated in the state legislature of Alaska: adultery, fornication, and prostitution. On the one hand it is proposed to delete adultery and fornication from the criminal code of Alaska; on the other it is proposed to legalize prostitution. Because these issues involve personal moral conduct as well as the moral climate of society, I wish to offer my views for your consideration as you make your deliberations.

While this statement is directed to HB222, which proposes legalizing prostitution, it makes reference to the pending proposals to decriminalize fornication and adultery. This is done not because all three are in the same general sphere but because the development of thought through one to the other helps to highlight the focal question, what makes good law.

From the start it should be stated that there is no simple automatic answer to the legislative proposals that have been made. Legitimate arguments are urged by both those making the proposals and those resisting them. One side emphasizes a concern for laws that are good and feasible; the other, the concern for laws that will protect society and reflect the dominant public morality. Both highlight the relationship that cannot be ignored.

It is the function of the state acting through its legislators to be the defender of the common good, to defend society against morally destructive forces, to protect innocent parties, particularly those who are not mature

enough to protect themselves. Criminal statutes are one vehicle by which that responsibility is fulfilled.

Yet, it is rightly pointed out, a criminal statute that is not feasible in terms of the people who are to observe it is not a good law. If it is unenforceable it really protects no one. If it is openly and generally ignored, it leaves in its wake a contempt of law, which is harmful for society.

Enacting good law, particularly in a religiously and morally pluralistic society such as ours, involves seeking a path someplace between the ideal and the practical.

Some morally evil acts violate basic human dignity and rights. As such they are to be condemned and prevented. Whether the prevention, however, is to be by criminal statute is an additional consideration. For criminal statutes concern not only the moral quality of an action but also the social consequences of the action and any law relating to the action.

How does one measure the social consequences? Thomas Aquinas proposes a feasibility test.

The feasibility test helps to indicate a course both possible and practicable, adaptable, meeting local circumstances, cultural ways, attitudes, and traditions. If a law is not feasible in terms of the people to whom it applies, it is simply not a law that fits man's nature as concretely experienced.

For the feasibility test certain questions might be asked. Will a specific criminal statute really do the job? Protect the rights of individuals? Protect the public order? Protect the immature and the innocent? Does the existence of a specific criminal statute reflect the true moral beliefs of the people?

The three questions before the legislature are cases in point. Fornication, adultery and prostitution are morally evil actions, sinful actions, if one does not mind using a word many like to shy away from these days. At least the majority of people still consider them immoral and sinful. As such they are to be condemned and to be avoided no matter what the criminal code says or does not say.

The impact of each on the public order, however, differs. Fornication involves the two parties to the act. Adultery affects also the rights of a third party, the offended spouse, and undermines the holiness and integrity of family life.

Prostitution is without question public in nature. It is a commercial enterprise with a place of business. It affects a neighborhood, by reputation, by encouraging pornography shops; it reaches out into other groups of people through other types of crime related to it, for example, graft, assault, all things covered under the term "organized crime."

The focal question on the legality of fornication, adultery and prostitution is: is a criminal statute necessary and useful to protect society and especially the innocent from the effects of such morally evil acts?

It is my opinion that where fornication is involved a criminal statute is neither feasible nor necessary. I see no compelling reason that a criminal statute against it be retained.

Adultery affects more than the parties involved: the offended spouse. In some instances, such as when "wife-swapping" becomes evident, a whole neighborhood is affected. Yet, retaining adultery as subject to a criminal statute is in my opinion only questionably feasible.

Prostitution, however, does have extensive public impact and should be kept illegal.

No one should be so naive as to think that prostitution will be stamped out or completely controlled, legal or illegal. But for want of persuasive evidence to the contrary, a law completely prohibiting prostitution provides, in my opinion, better protection for the public at large and particularly for the young and immature than a qualified law such as is proposed. The burden of proof is upon those who propose the change.

These observations I make as an Alaskan concerned for the welfare and good moral order of the State. I offer them as another voice in the public dialogue that will assist our state legislators in the decisions that they alone must make.

At the same time I hope that the public airing of these issues will make people more sensitive to the moralvalues that must characterize our society. No criminal statute will have the positive effect on society, and particularly on the young and immature, that personal example will. The Christian life is not just a process of avoiding sin or of preaching that others avoid it. Rather it is the personal response of each one of us to God's love for us in the living of our lives. Hopefully we will all put much more effort into that type of response than into the vehemence of the arguments about criminal statutes.

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

Pouch H01, Juneau 99811
~~POUCH H~~ JUNEAU 99801

April 18, 1975

The Honorable Bob Bradley
Chairman, House Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Bradley:

In response to your letter request of March 17, 1975, a summary report of the cases of venereal disease in Alaska with a breakdown of those cases in Anchorage and Fairbanks is attached.

In answer to your second question, it is difficult to provide accurate figures as we do not have any means of determining the number of cases of venereal disease that are directly related to prostitution activities! Our Venereal Disease Control Program staff estimates that a maximum of one to two percent of the total reported cases are related in anyway to prostitution activities. A majority of their contact and case investigations incriminated the non-professional as the source of venereal disease infection.

The legalization of prostitution at the local level will require the establishment of standards not only for the medical examination of the prostitutes, but regulations concerning sanitation of the premises and approval of laboratories performing the required tests. The enforcement of the standards and regulations, either at the state or local level, will require augmentation of staff and additional funding. In broad terms, the medical examination with specimens for laboratory testing would need to be weekly at the very least for gonorrhea and monthly for syphilis, with a general examination for skin infections. This in itself poses many enforcement problems due to the mobility of prostitutes, time lags in laboratory reports, and availability of medical and laboratory personnel. In addition, there must be assurance of properly collected specimens during the course of the medical examination and examination of specimens by qualified

personnel in an approved laboratory. The houses or premises also need to be regulated with regard to basic sanitation and cleanliness and this may become a state or local function.

The legalization of prostitution poses many social and moral issues for the State, and it is a matter, I feel, that needs to be studied in depth. Our staff would be in a better position to assist your committee if time were allowed to contact other states where there is quasi-legal prostitution and obtain the benefit of their experiences.

A position paper on HB 222 is being prepared and may be of assistance to your committee.

Sincerely,

Francis S.L. Williamson

Francis S.L. Williamson
Commissioner

Attachment

CASES OF REPORTED VENEREAL DISEASE

STATE OF ALASKA

SYPHILIS CASES	124 (including military)	TOTAL
Civilian:	10 primary & secondary	
	15 early latent	
Military:	1 primary & secondary	
GONORRHEA CASES	3261 (including military)	TOTAL
Civilian only:	2983	
Gonorrhea (excluding military)		
Male	60.78%	1813 cases
Female	39.22%	1170 cases

ANCHORAGE (civilian only)		(military)
SYPHILIS	72 TOTAL	11 TOTAL
	4 primary & secondary	1
	4 early latent	0
	61 late latent	9
	3 congenital	1
GONORRHEA	1284 TOTAL	225 TOTAL
Male	743	
Female	541	

FAIRBANKS (civilian only)		(military)
SYPHILIS	12 TOTAL	0 TOTAL
	4 primary & secondary	
	0 early latent	
	8 late latent	
	0 congenital	
GONORRHEA	251 TOTAL	39 TOTAL
Male	174	
Female	77	

CASES OF REPORTED VENEREAL DISEASE

STATE OF ALASKA

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	8 late latent	
	0 congenital	
GONORRHEA	251 TOTAL	39 TOTAL
Male	174	
Female	77	

Seward, Alaska
April 21, 1975

Dear Bill Bradley,

As a native born Alaskan, and mother of two, I wish to express to you my opinion on House Bill No. 222, to leagalize prostitution. When I first heard that there was a public hearing in Juneau about an Act to do this, I wrote to you saying that I was most e definitely against it.

Now as shocked as a I am, that it has become a bill, I feel sto ronely that I should write again, and say that I really am against this Bill, and pray that it will never be passed. This is against the Word of God, and certainly a terrible thing to even think of.

I don't know how I can state my views any stronger, but would if I could. I'm sure that you realize that the fact that I have taken time to write to you, tells you how serious I think this is.

I am against Bill no. 222.

Sincerely yours,

[illegible]

Box 1246

Seward, Alaska 99664

Kim -

Write a letter - Forbes

plate - "local option"; We have

a different of opinion

Ed.

Dear Mrs Sickles May 13 1975

Thank you for your letter supporting HB 362. This bill is being considered by the Finance Committee at this time. I support the Headstart programs and agree that adequate funding must be made available to meet the rising costs of the program and will work for passage of this bill.

Sincerely

Bob

Dear Mrs. LeVan,

Thank you for your letter concerning HB 222. I appreciate that you bothered to write as it is the only way that we as legislators know how you feel about legislation that is introduced.

I would like to point out that HB 222 does not legalize prostitution but only gives local communities in the State the right to determine whether they would like by vote whether they would like to legalize it.

BOB BRADLEY

state house

CHAIRMAN, COMMERCE COMMITTEE
POUCH V
JUNEAU, ALASKA 99811
465-3824

VICE CHAIRMAN, JUDICIARY
601 N. BRAGAW
ANCHORAGE, ALASKA 99504
272-0275

April 23, 1975

Ms. Lynn Langfield
116 North Pine Street
Anchorage, Alaska 99504

Dear Ms. Langfield,

This is a reply to your letter dated April 9th, regarding HB 222. House bill 222 does not legalize prostitution. As the bill was written it gives local communities in the State the option of legalizing prostitution either by actions from city council, Borough Assembly, or by a vote of the people in that area.

The introduction of the bill was an attempt on my part to bring a now flourishing illegal practice under control. All the evidence that we gathered showed that the police and courts do not enforce present laws.

It is obvious we have a difference of opinion on the bill but I do appreciate receiving your comments. Thank you for writing.

Sincerely,

Bob Bradley

BB/mr

Dear Mrs Peterson April 23

Thank you for your letter concerning SB-69. I support the bill for early retirement and will be encouraging legislation to achieve that end.

Sin

Bob Bradley

~~Dear Mr Langfield~~

~~I am writing to answer your letter regarding HB 222.~~

Dear Mr Langfield

This is a reply to your letter dated April 2 regarding HB 222. House bill 222 does not legalize prostitution. As the bill was written it gives local communities in the State the option of legalizing prostitution either by actions from City Council or Borough Ass. or by a vote of the people in that area.

The introduction of the bill was

~~as was~~ an attempt on my part to bring a now flourishing illegal practice under control. All the evidence that we gathered showed that the police ~~do not enforce~~ and courts do not enforce present laws.

It is obvious we have a difference of opinion on the bill but I do appreciate receiving your comments. Thank you for writing.

Ben

Bob

Lynn S. Langfield Jr.
116 North Pine Street,
Anchorage, Alaska 99504

April 9, 1975

Representative Bob Bradley
State House,
Juneau, Alaska 99801

Dear Bob;
I understand that you are sponsoring a bill to legalize prostitution for the State of Alaska and that you are working very hard to get this bill pushed through the committee so that it may become law.

I was not under the impression that we sent you down to Juneau to do our PIMPING for us. If this is the only kind of legislation that you can think of for our community, then why don't you just turn in your badge and come on home, so that they can appoint someone who can do some good down there. I wonder how happy you would be if after the legislation were passed, a Whorehouse were opened at 602 North Bragaw? I am presuming that you live at 601 N. Bragaw.

In voting in new legislators, I as well as many of my neighbors were under the assumption that we would find someone who would do some good for our Community and not get someone in there who was worse than the last one that was there. I am writing a letter to the Editor of the newspaper and am going to circulate a petition to try and stop your bill.
I am also clipping out every article that has anything to do with this bill and when you come up for re-election, I am going to plaster it all over town. We will then see whether or not you get re-elected. I will do everything to stop you if I have to run against you myself. I feel it is about time that your type of politician be put on notice that you are supposed to be working for us the people who elected you and not for some moneyed outfit that is trying to promote complete deterioration of our society. With people like you in office the next step would be to legalize gambling and then Euthanasia and God only knows what else.

I sincerely hope that you will have the courtesy to answer this letter and give me some justification for your move. Don't tell me, so that we can collect taxes. They would not pay them anyway. There are too many tax shelters that they could use. I am not a radical nor am I anobody that couldn't possibly hurt your political life. I am president of the New Alaska 49'ers CB Radio club with over two hundred members, I am past President of the Good Sam Club with over fifteen hundred members, and I am Vice President of the Kiwanis Club here in Anchorage. We of the Kiwanis Club and the 49'ers are working on the problem right now.

Sincerely,

Lynn Langfield

P.S. Senator Brad Bradley is a very good friend of mine and I am writing him also. I would appreciate your giving me a call when you are in town next so that I can schedule you to speak at our Kiwanis Club and explain your point of view.
My home phone number is 333-7951, and my office phone is 265-5281 extension 22. I shall be waiting to hear from you in this matter.

SB 350

Box 521
Cordova, Alaska 99574
January 31, 1975

Bob Bradley
601 North Bragaw
Anchorage, Alaska 99504

Dear Representative Bradley:

I believe you find the enclosed self-explanatory. You may well have already seen the article or one like it in another publication.

It does bring to mind one very important point, however, in that as you may recall, when the "Marijuana Controversy" began in the mid 60's many a scientist, medical doctor, psychiatrist and psychologist repeatedly stated "it will take twenty (20) years of usage before we will know what effects of "Pot" really are.

For the Public Servant who tends to view with suspicion all articles published by this particular periodical, I am sure more direct contact with the author would prove enlightening.

This article is particularly gratifying to me since I vigoriously opposed the prior stance of Dr. Powelson when I was State Coordinator for Drug Abuse Education working out of Governor Miller's office.

It is extremely unfortunate that we constantly find ourselves placed in a position where we seemingly can only compare the merit or demerit of one drug as opposed to another. However, as long as certain rationalizations are expounded on at great length by a small vocal group of people wishing to "justify their personal actions", it therefore behooves those who know that "they aren't really telling it like it is" to make every attempt to make our unsuspecting and easily swayed youth and their less knowledgable parents at least partially aware of the trap that is being laid for them by other older youths and immature young adults. Unfortunately, all too often this type of action is viewed simply as confrontation.

One day, perhaps, we may actually get around to dealing with the problem. At present to my knowledge, this is not being done anywhere in Alaska. The main reason for this is that there are very few people, in or out of government, who actually understand the problem, and the remainder of those who would appear to be concerned are far more interested, for various and sundry reasons, in treating the symptom of the problem or, failing in that, to bunglingly attempt to rehabilitate the visable and therefore socially unacceptable end result of the problem.

There is a workable solution to the problem but it is not a "quickie miracle" solution. It will take a lot of hard work for a lot of years. In short, it is the reverse of dependancy - it is called building self-confidence, not braggadocio - just self-confidence.

If you would tell me, as a lot of self serving bureaucrats have, in order to preserve their position or function, that a lot is and has been accomplished toward the goal of correcting the problem then I would say to you "let the public see the results and take heart".

If you sincerely wish to pursue a solution to the problem, I wish you good luck because in my view human resources are at least as important as are all of our other "natural" resources.

Very truly yours,

James F. Calhoon

James F. Calhoon

HB

2351

236

HB 235 + 236

Tape #
11

Date
3/11

"An Act relating to the duties of the Department of Commerce."

COMMITTEE REPORT

2/28/75 HOUSE FINANCE

Mr. Speaker: Date 3/10/75

The Committee on Commerce has had HB 230 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

"An Act relating to the duties of the Department of Commerce."

COMMITTEE REPORT

2/28/75 HOUSE FINANCE

Mr. Speaker: Date _____

The Committee on Commerce has had HB 235 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

H.S. Sadler	Do Pass	
Lee Tobler	Do Pass	

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

H.S. Sadler
_____ Chairman

AMENDMENT

OFFERED IN THE HOUSE: BY: Commerce Committee

To: _____ HOUSE BILL No. 239

SENATE BILL No. _____

PAGE: 1 LINE: 6,9,10,13,14

Line 6

After the words "Department of" delete the word "Commerce" and insert the words "Law, Division of Consumer Protection".

Line 9

After the words "Section 1" delete "(A) AS 32.[illegible]" and insert "(A) AS 21.[illegible]".

Line 10

Delete "(1)" and insert "(6)".

Line 13

After "[illegible]" delete "[illegible]" and the word "Contract and".

Line 14

After the words "Department of Law" add the words ", Division of Consumer Protection".

TO: Insurance DATE: March 11, 1975

File

(~~SENATE~~ - HOUSE) BILL 236

RE: An Act relating to the duties of the Department of Commerce

Check One:

1. TOP PRIORITY - in favor of. ____
2. FAVOR - in favor of, but not top priority. XXX
3. OK - no definite stand. ____
4. NOT IN FAVOR - ____
5. TOP PRIORITY - "Strongly Opposed" ____
6. BILL DOES NOT PERTAIN TO DIVISION ____

COMMENTS: (Justification must be stated for the above line checked - continue on another page if needed.)

This bill requires the publication of a "consumers guide to insurance". Quite a few states have adopted this position either legislatively or administratively. The publication would require additional staffing in the Division of Insurance to handle and process resultant increases in inquiries and complaints.

The Division of Insurance has been striving to reach a position where it could publicize its complaint handling functions as well as consumer rights and shopper suggestions, yet have the capability to process the increased inquiry and complaint load that would result from such a publication. The complaints and inquiries received by the Division through word of mouth have resulted in substantial savings to the public ($356,720. during FY 74). Increased public awareness of this agency and its functions would logically increase utilization of its capabilities, hence the need for additional staff if this bill is passed.

Writer's Signature: John J. O'Shea

Writer's Title: DIRECTOR

(DEADLINE 24 hours)

HB

243

HB 243

Tape #
12

Date
3/12

"An Act relating to public utility rates; and providing for an effective date."

COMMITTEE REPORT

3/26/75 HOUSE JUDICIARY

Mr. Speaker: Date 4/1/75

The Committee on COMMERCE has had SS HB 243

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends: Do Not Pass

_____ Chairman

TELEGRAM

ACA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

02078 ANCHORAGE AK 45 03-12 330P ADT

1975 MAR 12 PM 6 43

PMS REP BOB BRADLEY CHAIRMAN 1246

HOUSE COMMERCE COMMITTEE

JUN"

RE HB243 PUBLIC UTILITIES ADVERTISING WE BELIEVE THIS BILL TO BE A DETRIMENT TO ALL OF ALASKA AND REQUEST THAT YOU HOLD PUBLIC HEARINGS IN ANCHORAGE ON THE BILL SO THAT AS MUCH OF THE PUBLIC THAT WISHES MAY TESTIFY

DAVID SCHMIDT PRESIDENT ALASKA STATE SOCCOR FOOTBALL

3200 WEST 70TH ANCHORAGE

TELEGRAM

RCA ALASKA COMMUNICATIONS
PHONE [illegible]
JUNEAU, ALASKA 99801

02071 ANCHORAGE AK 27 03-12 255P ADT 1975 MAR 12 PM 6 14

PMS REP BOB BRADLEY

JUN" 1241

THIS IS TO ADVISE YOU THAT THE ANCHORAGE ASSOCIATED

BROADCASTERS ARE DEFINITELY AGAINST HB243 AND STRONGLY URGE

THAT A PUBLIC HEARING BE HELD HERE IN ANCHORAGE

WILLIAM B ALLEN PRESIDENT ANCHORAGE ASSOCIATED BROADCASTERS

TELEGRAM

RCA ALASKA COMM.
PHONE: 586-64
JUNEAU, ALASKA 9980[illegible]

1975 MAR 12 PM 6 14

#

02070 ANCHORAGE AK 38 03-12 253P ADT

PMS REPBOB BRADLEY

JUN-12-10

AS PRESIDENT OF SOURDOUGH BROADCASTERS AND RADIO STATION

KHAR AM/FM ANCHORAGE I AM NOT IN FAVOR OF HB243

THIS IS SOMETHING THAT SHOULD BE BROUGHT BEFORE ALL

INTERESTED PARTIES IN A PUBLIC HEARING PREFERABLY IN

ANCHORAGE

PATRICIA HARPEL PRESIDENT KHAR RADIO

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

#

02065 ANCHORAGE AK 19 03-12 240P ADT

1975 MAR 12 PM 5 11

PMS REP BOB BRADLEY

1234

JUN"

I WANT YOU TO ARRANGE A PUBLIC HEARING PREFERABLY IN

ANCHORAGE ON HB243 THE PUBLIC UTILITY ADVERTISING BILL

DICK LOBDELL KIAK RADIO FAIRBANKS

TELEGRAM

RCA ALASKA COMMUNICATIONS
PHONE 586-6440
JUNEAU, ALASKA 99801

02066 ANCHORAGE AK 25 03-12 243P ADT 1975 MAR 12 PM 5 11

PMS REP BOB BRADLEY

JUN"

I FEEL YOU SHOULD ARRANGE A PUBLIC HEARING IN ANCHORAGE

CONCERNING HB243 THE PUBLIC UTILITY ADVERTISING BILL

BEFORE FURTHER ACTION IS TAKEN ON THE BILL

BOB FLEMMING KYAK

#

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

;

1975 MAR 12 PM 5 11

Ø2064 ANCHORAGE AK 35 Ø3-12 216P ADT

PMS REP BOB BRADLEY CHAIRMAN HOUSE COMMERCE COMMITTEE

1233

JUN"

SPEAKING FOR THE RADIO AND TV BROADCASTERS IN ALASKA

I STRONGLY REQUEST YOU HOLD PUBLIC HEARINGS IN ANCHORAGE

ON HB243 THE PUBLIC UTILITIES ADVERTISING BILL PLEASE NOTIFY

ME AS TO YOUR INTENTIONS

ROY ROBINSON PRESIDENT ALASKA BROADCASTERS ASSOCATION

KFQD ANCHORAGE

#

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE 586-6440
JUNEAU, ALASKA 99801

1975 MAR 17 AM 11 54

;

20007 POM KENAI ALASKA 15 03-17 936A ADT

PAKDLREP ORAL FREEMAN

1537

POUCH V

JUNEAU

PROTEST HB243, SUBJECT MATTER IS WITHIN PROVINCE OF UTILITIES

COMMISSION. LETTER FOLLOWS

OSCAR THOMAS BOX 614 KENAI

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

1975 MAR 13 PM 1 54

#

02014 ANCHORAGE AK 21 03-13 1113A ADT

PMS REP BOB BRADLEY CHAIRMAN

1310

HOUSE COMMERCE COMMITTEE

JUN"

I AM AGAINST HB243 UTILITIES ADVERTISING BILL AND REQUEST

THAT PUBLIC HEARINGS ON THIS BILL BE HELD IN ANCHORAGE

CARL BRACALE PRESIDENT KIMO TV ANCHORAGE

#

TELEGRAM

ACA ALASKA COMMUNICATIONS, INC
PHONE: 586-6440
JUNEAU, ALASKA 99802

1975 MAR 11 PM 3 12

;

Ø2Ø5Ø ANCHORAGE AK 45 Ø3-11 1202P ADT

PMS REP BOB BRADLEY CHAIRMAN STATE HOUSE

1957

COMMERCE COMMITTEE

JUN"

DEAR REPRESENTATIVE BRADLEY

REFERENCE BILL 243 WHICH WILL BE COMING UP BEFORE YOUR COMMITTEE TOMORROW I DESIRE TO SUBMIT WRITTEN COMMENTS TO THE COMITTEE OPPOSING THIS PROPOSED LEGISLATION AND SHOULD HAVE IT IN THE MAIL NO LATER THAN MARCH 12, 1975

CARL A BRACLE PRESIDENT AND GENERAL MANAGER

KIMO TELEVISION

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

1975 MAR 13 PM 12 44

#

03007 NL ANCHORAGE ALASKA C7 03-13 1034A ADT

PMS REPRESENTATIVE BOB BRADLEY CHAIRMAN

HOUSE COMMERCE COMMITTEE 4321

JUNEAU ALASKA

REFERENCE PUBLIC UTILITIES ADVERTISING HOUSE BILL 243

RESPECTFULLY REQUEST THAT YOUR COMMITTEE SCHEDULE A FULL HEARING ON THIS IMPORTANT ISSUE IN ANCHORAGE WHERE THE MAJORITY OF ALASKAS BROADCASTERS HAVE THEIR HEADQUARTS. PLEASE ADVISE YOUR DECISION AND IF POSSIBLE THE HEARING DATE AT EARLIEST CONVENIENCE. AS PRESIDENT OF NORTHERN TELEVISION INC I SPEAK FOR TELEVISION RADIO AND FM STATIONS IN ANCHORAGE AND TELEVISION AND RADIO STATIONS IN FAIRBANKS.

A G HIEBERT

Alaska State Legislature

House

JUNEAU ALASKA

March 13, 1975

File with bill material

Mr. Connel Murray, President
Murray, Kraft, & Rockey, Inc.
3925 Reka Drive
Anchorage, Alaska 99504

Dear Conn:

Thank you for your views on House Bill 243, a copy of which I have enclosed for your information.

The bill does not directly prohibit utility advertising to "reasonable promotional expenditures" or "energy conservation measures" but only disallows the inclusion of advertising expenditures in other areas in the tariff of public utilities. In so far as the utilities, they may be subject to taxable advertising expenditures and still be a deductible item. I do not know whether this restriction on what kind of advertising expenditures may be included in the utilities tariff will eliminate advertising in areas beyond competitive promotion or energy conservation.

I did, however, discuss the bill with the sponsors and they conceded that a loosening of the restriction on advertising areas may be warranted. The bill is presently assigned to the Commerce Committee and I have provided the chairman of that committee, Bob Bradley, with a copy of your remarks and have requested him to notify you in advance of any hearings that may be held on the bill.

Mr. Bradley and I would also welcome any additional comments you may wish to make.

Very truly yours,

Clark Gruening

Clark Gruening

pmm
cc: Representative Bob Bradley ✓
Enclosure

murray, kraft & rockey, inc.
advertising & public relations
3925 Reka Drive, Anchorage, Alaska 99504, (907) 279-3516, Telex (090) 26-449

March 7, 1975

The Honorable Clark Gruening
Alaska State House of Representatives
917 Cordova
Anchorage, Alaska 99501

Dear Representative Gruening:

This letter is in response to a news release in the Anchorage Times concerning a bill introduced by Fairbanks democrats, Fred Brown and Mike Bradner, and apparently aimed at the advertising industry.

This bill threatens the livelihood of a number of Alaskan members of the advertising industry. These are people who have worked hard to upgrade their chosen profession, who live in Alaska, raise their families here, and pay their taxes to help support State government. If the Brown-Bradner bill were passed as presently written, it would constitute a serious blow to this industry.

In what is ostensibly an effort to protect the consumer, this bill instead would deprive the public of much needed information and/or education. As written it restricts utility advertising to "reasonable promotional expenditures in competitive areas" or "energy conservation measures." What about service interruptions? New installations? New procedures? Reminders about seasonal precautions? Meeting notices? These are just a few areas of needed communications which would be excluded by the Brown-Bradner bill.

Any business -- and utility is a business -- must depend upon public acceptance for its ultimate survival. This even includes good will advertising, since it is vitally important to have the good will of the public when the inevitable crisis arises. And when considering the many man-hours which must be expended in answering public complaints, handling real or threaten law suits, and the other results of bad public relations, it might safely be said that such good will might indeed be a bargain for the consumer.

I join nearly two dozen other members of this agency and, I am sure, hundreds of other Alaskans in urging you to oppose this bill.

Very truly yours,

Connel Murray
President

CM/rb

2 4/3

H.B.

KFQD

A.K. Broadcasting

Pres. of Radio

Ohio Supreme Ct.

FILE

• *from the desk of Al Bramstedt*

PRESIDENT AND GENERAL MANAGER
MIDNIGHT SUN BROADCASTERS, INC.
P.O. BOX 1160, ANCHORAGE, ALASKA, 99501
THE MIDNIGHT SUN NETWORK

March 11, 1975

To: Secretary,
House Commerce
Committee -

Please accept enclosed as my written testimony on hearing for House Bill #243. Many thanks -

Al C. Bramstedt, Sr.

Statewide Radio TV

"A WRONG KIND OF LEGISLATION"
KENI-TV, Anchorage

Mar. 11, 1975

We have worked intimately with the development of communications in Alaska for over 35 years now. The territorial legislature and more recently the State legislature has both helped and has hindered, depending on the kind of lawmaking in the legislative mill on the the shores of Gastineau Channel.

Now comes the worst kind of legislation in the form of House Bill 243. What will it do? It will abolish advertising by all kinds of utilities in Alaska. At first thought that may not sound like such an unreasonable idea.

But it's bad legislation -- for several reasons. The first objection that comes to mind is it could wipe out or put a crimp in the currently emerging development of network satellite sports on TV. We of the Midnight Sun network in recent years have worked closely with RCA and the NBC Network and key local sponsors in trying to give the Alaska sports fan an increasing schedule of national sports attractions. As witness our late-March plans to bring national basketball from NBC to make Alaska just a bit less isolated. Our friends and competitors with CBS in the state have also worked hard to achieve the satellite sports attractions of today in Alaska. It hasn't been easy, it hasn't been profitable, and the job is far from having been completed.

Now comes boneheaded House Bill 243 that is orchestrated to decimate the progress we have made in Alaska on the real thing -- live and direct and in living color, straight from the field of play. As a business matter in the TV industry, these games - football, baseball, and now basketball have been marginal if not unprofitable. And now we are told that our elected lawmakers will no longer allow such stalwart supporters as RCA, Chugach Electric Anchorage Natural gas -- or any of the power companies or phone companies in Anchorage, Fairbanks and Juneau and environs to help make all this possible. This bill threatens to put Alaska satellite television back ten years, to when it was nothing at all. And let's observe that what these entities spend in advertising is but a minute part of their overall gross income.

And there are other strong reasons for delivering the deep six to House Bill 243. A utility firm lives and breathes on public consent -- it must tell its story, tell what its doing and where and for what purpose. They want to tell how they are progressing for Alaska's benefit.

Another reason for a utility advertising is they sometimes have a need for showing the public how to use new equipment. For example right now they are preparing radio, TV, and newspaper material to show the public in the Juneau area how to use the new DDD - direct distance dialing -- equipment. Suppose they couldn't advertise this service? Beautiful!

Right here in Anchorage earlier this winter we had a prime example of why utilities should spend money for advertising. The community developed some hairy power supply problems which in the dead of winter might have brought this town to its knees -- in terms of loss of life, suffering, and property damage. But the utilities used the media with well planned advertising campaigns to keep the public fully informed on a day-to-day basis, and hopefully by this time the crisis is in the past tense.

Sometimes I think it's too bad our legislators aren't tested for brain damage before we send them to Juneau. There is no better example than House Bill 243. If we all don't do something about it -- we'll have to live with it and without satellite sports on TV, without emergency information about our utilities. They will be required to operate in the dark, so to speak. If House Bill 243 bothers you like it bothers me I suggest you raise hell with your State Senators and State House of Representative members. They're supposed to be there to be of help to you.

Yours truly,

Alan C. Bramsdell

Box 1160,
Anchorage

advertising club of alaska
po box 3536, anchorage, alaska 99501

March 11, 1975

Representative Bob Bradley
Alaska State House of Representatives
Juneau, AK 99801

Dear Representative Bradley:

There are many insidious methods of practicing censorship of the media. One method is legislation eliminating advertising of businesses and services. Regardless of the pretext under which the legislation is introduced censorship is the end result. This effect is just one of the reasons the Advertising Club of Alaska objects to House Bill 243 introduced by Representatives Fred Brown and Mike Bradner.

Utility advertisers are already conscious of the inappropriateness of advertising promoting unnecessary energy consumption. It is not necessary to legislate against this type of advertising. There are many examples of worthwhile advertising by utilities in a market area in which the utility has no direct competition for its product or services. One example is a telephone utility advising people of the low traffic hours on long distance telephone lines. If the public is to get maximum use of the utilities that are available to them, and for which they are paying, it seems more reasonable to require the utilities to tell about their services.

There are many other things that could be said, but in the sake of brevity I will outline some of the principles of our country that are violated by legislation restricting advertising.

Does the public have the right to not pay for adv. that does not benefit them directly?

1. The right to advertise truthfully, a right of all the people.

2. The right of people--taxpaying citizens--to be informed.

3. The right of companies to communicate properly and truthfully with their customers and the general public. This right includes the priviledge of choosing the method of communication they prefer.

4. And to repeat, the right to free, uncensored communications.

The proposed legislation also brings two immediate questions to mind. Will the sale of electric powered and other energy-using appliances be banned? Are public relations type news articles about a utility and its plans for the future to be banned? And finally, who is to decide exactly what advertisements, what wording, what illustrations, what ad headings, what facts are good or bad in a utility advertisement. Just thinking of the people it will take to decide this leads me to think the consumer will pay more for the regulatory agency than they might pay for costs related to advertising.

Speaking for the Advertising Club of Alaska, I urge you to do everything you can to see that this legislation does not progress any further. I welcome your comments.

Sincerely,

Vic Hussey

Vic Hussey, President
Advertising Club of Alaska

kdg

OF WHAT IS The Question + paying for it.
+ OBJECTIVELY

ask for unqualified answer!

can't pay own pension (adv.) and liars.

Question: Do all truthfully soap Co. adv. truthfully - are they liars? Answer YES

Question: Do all soap Co. adv. objectively answer: Should be - NO - they try + sell their product.

FACTS ARE ACCEPTABLE FOR THE PUBLIC TO PAY

ALASKA BROADCASTERS ASSOCIATION

March 7, 1975

Representative Bob Bradley
Alaska State House
Juneau, Alaska 99801

Dear Bob:

Rep. Fred Brown and Mike Bradner of Fairbanks have introduced a bill (HB 243) in the Alaska State House that would deny public utilities the right to advertise as they wish. The bill would usurp first amendment freedoms guaranteed by the Constitution and place the public in a very precarious position. You need only ask a resident of the Anchorage and Peninsula areas about their frightening experiences during our recent blackouts.

Not only is it necessary for utilities to be free to advertise during a crisis in the amount and the time they feel would benefit the public but it is of equal importance for a utility to be free to advise the public of new technical developments and services available.

Speaking for the Alaska Broadcasters association, I am asking you to do everything you can to see that this legislation does not progress any further. Please let me know, by return mail, your feelings on this matter.

Sincerely,

Roy Robinson

Roy Robinson
President

cc: KYAK, KBYR, KENI, KHAR, KFQD
KIMO-TV, KTVA, KENI-TV
The Anchorage Times
The Anchorage Daily News

RR/cg

Representative
CLARK GRUENING
940 Tyonek Drive
Anchorage, Alaska
99501

907-274-2446

Alaska State Legislature

HB. 243

House of Representatives

POUCH V JUNEAU 99811

March 14, 1975

Mr. Roy Robinson, President
Alaska Broadcasters Association
9200 Lake Otis Parkway
Anchorage, Alaska 99507

Dear Roy:

Thank you for your views on HB 243, a copy of which I have enclosed for your information.

This bill does not, as you will discover upon reading, deny public utilities the right to advertise as they wish. It does, however, disallow the inclusion of certian advertising expenditures in the tariffs of public utilities.

Your point that utilities should be able to advertise during a crisis and to advise the public of new technical developments and services is well taken. To the extent that it disallows certian advertising expenses to be included in the tariff this bill would discourage advertising in certian areas including advising the public of new technical developments and services although probably expenses incurred in a crisis situation would be allowed.

The purpose of the bill is to prevent huge advertising budgets of utilities from substantially raising the public's rates. I'm not convinced at this point there is any need to attempt to so restrict the advertising budgets and even if such a need were shown I would not favor HB 243 in its present form inasmuch as it tends to restrict advertising except in two areas and would tend to discourage utilities from advising the public of new technical developments and services.

I have already discussed the bill with the sponsors and they

have both conceded that a loosening of these restrictions may be warranted. HB243 is presently assigned to the House Commerce Committee and I have provided the chairman of that committee, Bob Bradley, with a copy of your remarks. I have requested Mr. Bradley to notify you in advance of any hearings that may be held on the bill.

Roy, after you have had time to read the bill and consider possible amendments, if any, to improve it I would welcome any additional comments you may have.

Sincerely,

Clark Gruening

CG/mm

enclosure

cc: Representative Bob Bradley✓

KENAI UTILITY SERVICE CORPORATION

A BLUE FLAME COMPANY

BENCO BUILDING P.O. BOX 814
KENAI, ALASKA 99611
(907) 283-7932

March 16, 1975

Dear Legislator:

Reference is made to H.B. 243 which would provide restrictions on advertising and promotional expense incurred by public utility companies.

Although we agree with the objectives of the proposed legislation we take strong issue with the means set forth for achievement. The regulation of utility rates should remain the sole province of the Alaska Public Utilities Commission. This agency is fully funded and, to our knowledge, the only body in the state with the capacity for a total overview of individual utility functions on a company by company basis. The commission's staff support includes a consumer protection section as well as financial analysts, tariff experts and engineering specialists. By law, the commission has full regulatory authority over the utility companies of Alaska, excepting those which are municipally owned. In that the commission is readily available to the legislature, the public and the utilities we fail to see why the alleged improprieties of one company, which have reportedly instigated H.B. 243, should not be handled through the existing channels. To correct through legislation might well interfere with legitimate and well founded programs of public utilities throughout Alaska.

By way of example, our company currently budgets $1,500.00 annually for advertising and promotion. This amount represents less than 3/10 of 1% of our total anticipated revenues. About half of the advertising budget goes to sponsor Little League baseball and Youth Hockey teams along with support to the local high school athletic and theatrical groups. The balance goes into direct communication with our consumers on subjects of interest to them. We would hope that the legislature would not act in such a manner as to interfere with this type of activity.

Very truly yours,

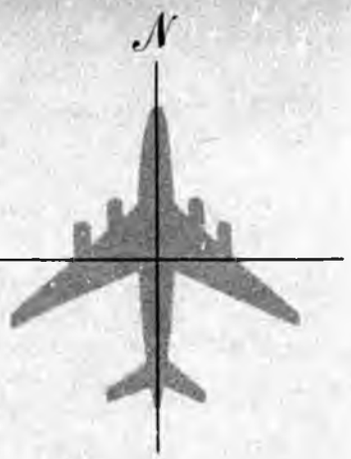
KENAI UTILITY SERVICE CORPORATION

Oscar L. Thomas, Vice-President

OLT:ilw

Greater Anchorage
CHAMBER of COMMERCE

H.B. 243



Crossroads of the Air World

POLICY RECOMMENDATION FROM STATE LEGISLATIVE COMMITTEE
* Approved by Greater Anchorage Chamber of Commerce Board of Directors
In Regular Session, March 21, 1975

WHEREAS, the Greater Anchorage Area is in need of knowing, for the public's good, what is taking place in Public Utilities, and the Anchorage population is interested in knowing and learning about the improvement of service from Public Utilities. A Public Utility must maintain a constant community awareness about current use and needs, future use and needs, and potential changes in the utility system.
A Public Utility by virtue of its service is working with and for practically every citizen in the community; the constant community communication and activity of Public Utility employees in key leadership areas of Anchorage produce a vital service to the future of the Utility and its public responsibility, and

WHEREAS, Public Utility budgets encompass operational and promotional monies for these vital functions, and these monies also provide for employment in the community of a substantial, contributive and educational nature.

NOW, THEREFORE, BE IT RESOLVED THAT the Greater Anchorage Chamber of Commerce encourages the maximum of essential public information gathering and dissemination by each utility.

BE IT FURTHER RESOLVED THAT any legislative effort to diminish this vital function be eliminated and that the Alaska Public Utilities Commission consider acting in its designated role in a positive manner to monitor the need and expenditures of such communication between Public Utilities and the community which they serve.

murray, kraft & rockey, inc.
advertising & public relations
3925 Reka Drive, Anchorage, Alaska 99504, (907) 279-3516, Telex (090) 26-449

March 19, 1975

The Honorable Clark Gruening
Alaska State House of Representatives
Pouch "V" State Capitol Building
Juneau, Alaska 99811

H.B. 243

Dear Clark:

Thanks for your letter and the copy of House Bill No. 243.

I am also grateful to you for your discussion with the sponsors of the bill, although I think that rather than a loosening of restrictions, the sensible thing to do would be to eliminate this bill completely.

Mechanics for control have already been allocated to other governmental agencies -- this merely drags the State legislature in, too.

As to your question regarding continuation of advertising outside the rate base, I think I can assure you that this would simply not happen. Unless advertising and public relations can be counted as a normal cost of doing business, along with the other avenues of sales, customer relations, and so forth, it would simply be eliminated -- which in turn would strike a blow at our industry.

Clark, the people of Alaska have not asked for this type of legislation. If Brown is quoted accurately in the press, he is using the State legislature as a weapon to settle a private vendetta with RCA. Frankly, I am hopeful that the balance of the legislature will not make that body a party to the settlement of personal arguments.

I would certainly strongly urge you to oppose House Bill No. 243.

Very truly yours,

Connel Murray

Connel Murray
President

CM/db

cc: Representative Bob Bradley
Roy Robinson
Vic Hussey

STATE OF ALASKA

Inter-Department Route Slip

TO:
MAIL STATION NUMBER 3101

DEPARTMENT Legislature - House

ATTENTION Rep. Bob Bradley

☐ Approval	☐ Note & Return
☐ Signature	☐ Initial & Return
☐ Comment	☐ Return As Requested
☐ Contact Me	☐ Return For Approval
☐ Prepare Reply	☐ Necessary Action
☐ For Your File	☑ Your Information

Remarks:

Gordon Zerbetz comments re: NL 243... for your files.

BM

FROM:
MAIL STATION NUMBER

DEPARTMENT Commerce

BY [signature] DATE 4/1/75

02-002 (REV.10/73)

TO: _____ DATE: March 20, 1975

(~~SENATE~~ - HOUSE) BILL 243

_____ _____

RE: "An Act relating to public utility rates; and providing for an effective date."

Check One:

1. TOP PRIORITY - in favor of. _____
2. FAVOR - in favor of, but not top priority. _____
3. OF - no definite stand. _____
4. NOT IN FAVOR - X
5. TOP PRIORITY - "Strongly Opposed" _____
6. BILL DOES NOT PERTAIN TO DIVISION _____

COMMENTS: (Justification must be stated for the above line checked - Continue on another page if needed.)

HB 243 amends AS 42.05.381(a) by adding the following sentence:

> No rate may include an allowance for costs of advertising or public relations except for reasonable amounts spent for energy conservation efforts or reasonable amounts spent for business promotion in a market area in which the utility has direct competition for its product ~~of~~ OR service.

For the reasons stated below, it is my opinion that this portion of AS 42.05.381(a) should be replaced by the following provision:

> The revenue requirements of a utility may not include advertising expenses except reasonable amounts spent for efficiency or conservation efforts and for business promotion in a market area in which the utility has direct competition for its services.

Writer's Signature: _____

Writer's Title: Chairman

(DEADLINE 24 hours)

(SEE ATTACHED PAGE 2)

COMMENTS: (continued)

As you will note, the phrase "revenue requirements" has been substituted for the word "rate" because the word "rate" as used in this phrase provides that the utility cannot spend for advertising that portion of the rate collected which is the utility's profit. As you know, each utility is allowed to earn a reasonable rate of return on its equity which is normally considered the profit of the utility. Historically, this profit has never been regulated by any public utility commission or federal regulatory body. Regulation of the dispersment of this profit may be unconstitutional. It is strongly suggested that this Commission not recommend regulation of the "profit" of a utility. Furthermore, the "rate" charged by a utility is computed by distributing among the utility's customers the revenue requirements of the utility (expenses) and a return on the rate base of the utility to cover the utility's cost of debt and cost of equity. The advertising expense which is the subject of HB 243 is a part of the utility's revenue requirements and is not reflected in the rate base or other computations upon which a consumer's rate is calculated.

The second change which you will note in the suggested replacement is the addition of the word "efficiency" to the phrase and de' ion of the word "energy." This would allow utilities to reflect in their revenue requirements funds spent for promoting efficiency as well as conservation. The case law on this matter generally permits utilities to reflect in their revenue requirements funds expended for efficiency and conservation. It would appear to be in the public interest to allow a utility to include in its revenue requirements advertising expenses spent to inform the public of the efficient ways of using the utility's services. The word "energy" was deleted because other utilities including telephone, gas, sewer and water entities should be allowed a reasonable advertising expense where the advertising directly refers to efficiencies or conservation that would benefit its consumers.

The next minor change found in the replacement section is the deletion of the word "product" in the last line. The reason for this deletion is that AS 42.05.701(3) defines "service" to mean "...every commodity, product, use, facility, convenience or other form of service which is offered for and provided by a public utility for the convenience and necessity of the public." It is apparent that the word "product" in the last line of HB 243 is surplusage and repetitive.

An additional point should be raised with respect to HB 243, and that is its effect on municipally owned utilities. As you are aware, many of the municipally owned utilities in the State are exempt from AS 42.05.381 as well as other Commission regulation and consequently could pass on to their customers advertising expenses.

243

March 18, 1975

Mr. Connel Murray, President
Murray, Kraft & Rockey, Inc.
3925 Reka Drive
Anchorage, Alaska 99504

Dear Conn;

Thanks much for your letter of March 7th relative to the bill which limits advertising in public relations by Utilities. At the present time this bill is under consideration by the Commerce Committee, Bob Bradley Chairman. I have taken the liberty of sending Bob a copy of your letter.

Thanks much for letting me know your thoughts in this matter. I am most appreciative.

Sincerely,

Mike Miller

REPRESENTATIVE
MIKE MILLER
ALASKA STATE LEGISLATURE
P.O. Box 1494
JUNEAU, ALASKA 99802
HOME PHONE 586-3067
LEGISLATIVE PHONE 465-3739

HOUSE MAJORITY LEADER
VICE CHAIRMAN, LEGISLATIVE COUNCIL
VICE CHAIRMAN, STATE AFFAIRS COMMITTEE
MEMBER, RULES COMMITTEE
MEMBER, COMMITTEE ON COMMITTEES

murray, kraft & rockey, inc.
advertising & public relations
3925 Reka Drive, Anchorage, Alaska 99504, (907) 279-3516, Telex (090) 26-449

March 7, 1975

The Honorable Mike Miller
Alaska State House of Representatives
Box 1494
Juneau, Alaska 99811

Dear Mike:

This letter is in response to a news release in the Anchorage Times concerning a bill introduced by Fairbanks democrats, Fred Brown and Mike Bradner, and apparently aimed at the advertising industry.

This bill threatens the livelihood of a number of Alaskan members of the advertising industry. These are people who have worked hard to upgrade their chosen profession, who live in Alaska, raise their families here, and pay their taxes to help support State government. If the Brown-Bradner bill were passed as presently written, it would constitute a serious blow to this industry.

In what is ostensibly an effort to protect the consumer, this bill instead would deprive the public of much needed information and/or education. As written it restricts utility advertising to "reasonable promotional expenditures in competitive areas" or "energy conservation measures." What about service interruptions? New installations? New procedures? Reminders about seasonal precautions? Meeting notices? These are just a few areas of needed communications which would be excluded by the Brown-Bradner bill.

Any business -- and utility is a business -- must depend upon public acceptance for its ultimate survival. This even includes good will advertising, since it is vitally important to have the good will of the public when the inevitable crisis arises. And when considering the many man-hours which must be expended in answering public complaints, handling real or threaten law suits, and the other results of bad public relations, it might safely be said that such good will might indeed be a bargain for the consumer.

I join nearly two dozen other members of this agency and, I am sure, hundreds of other Alaskans in urging you to oppose this bill.

Very truly yours,

Connel Murray
President

CM/rb

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M March 4, 1976

re: H.B. 243

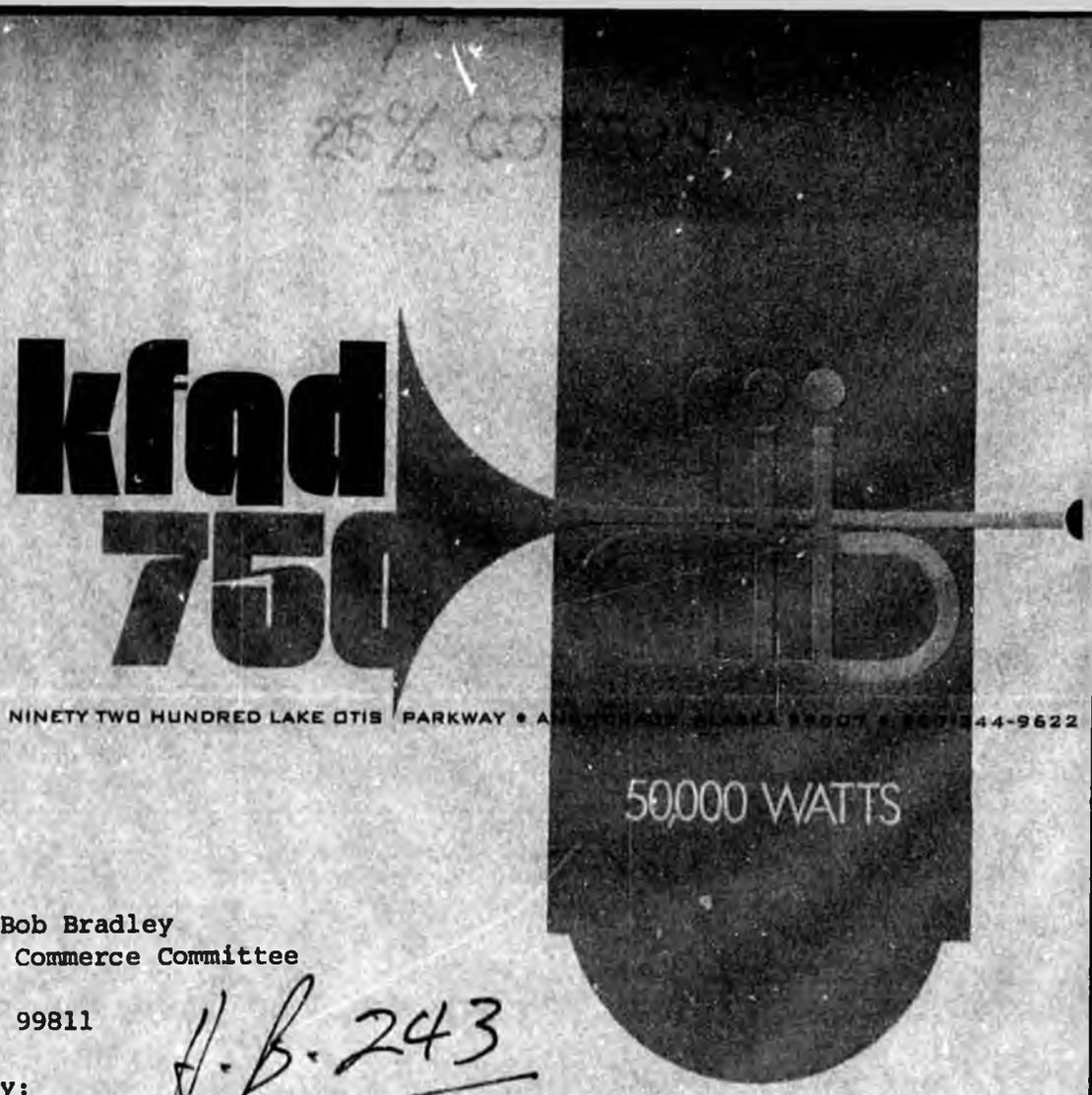
TO: Representative Bob Bradley
Chairman, House Commerce Committee

FROM: Billy G. Berrier BGB
Director, Legal Services

You have asked whether the exclusion of costs of advertising or public relations with certain exceptions for the rates demanded to receive by a public utility for service would preclude the utility for making expenditures for advertising other than the accepted expenditures. In my opinion it would not. Of course, such expenditures could not be recovered by the utility in its rates.

To over simplify, utility rates consist of the amount necessary to recover the expenses of the utility and a a reasonable rate of return upon the investment made by the utility. This rate of return is the profit to the utility and, of course, may by spent as the utility determines. While advertising expense, except for the allowed categories, would neither be an expense for which recovery could be had nor an investment on which a return could be earned it would be a permissable expenditure from the return earned by the utility since this is in effect a profit to the utility for its unstricted use.

BGB:smh



NINETY TWO HUNDRED LAKE OTIS PARKWAY • ANCHORAGE, ALASKA 99507 • 907-344-9622

March 12, 1976

Representative Bob Bradley
Chairman, House Commerce Committee
Pouch V
Juneau, Alaska 99811

H.B. 243

Dear Mr. Bradley:

I understand your Committee is currently scrutinizing HB243, a Bill designed to curtail most of the advertising done by utilities in Alaska.

I am writing to you as a Director of the Alaska Broadcasters Association, as a member of the Advertising Club of Alaska, as General Manager of KFQD Radio, as a citizen, and speaking for all, we strongly oppose this legislation. It did not get out of Committee last year. I hope the same is true this year.

The bill would usurp First Amendment freedoms guaranteed by the Constitution and would definitely be detrimental to the public. Not only is it necessary for utilities to be free to advertise during a crisis in the amount and the time they feel would benefit the public but it is of equal importance for a utility to be free to advise the public of new technical developments and services available.

Thank you for your consideration.

Sincerely,

Roy Robinson

Roy Robinson
General Manager
KFQD, Inc.

cc: Tim Wallis, Vice-Chairman
Oral Freeman, Ramona Kelley, Leo Rhode, Rick Urion
Lisa Rudd, Joe McKinnon, Helen Fischer

HB

257

258

HB 257 + 258

Tape #	Date
14	3/19
15	3/19
15	3/20

"An Act making a special appropriation to the Gas Pipeline Impact Committee; and providing for an effective date."

COMMITTEE REPORT

3/4/75 HOUSE FINANCE

Mr. Speaker: Date 3/20/75

The Committee on Commerce has had HB 257 under consideration. A Majority of the members of the Committee

(X) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

L. S. Bradley _____ _____

Ramon Rollins do pro _____ _____

Tom Brady " " _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends: no rec

Freeman recommends: DNP Rec

_____ recommends:

_____ recommends:

_____ recommends:

L. S. Bradley Chairman

"An Act creating the Gas Pipeline Impact Committee; and providing for an effective date."

COMMITTEE REPORT

3/4/75 HOUSE FINANCE

Mr. Speaker: Date 3/20/75

The Committee on Commerce has had HB 258 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

(X) recommends it DO PASS WITH ATTACHED AMENDMENT(S) + title & intent bill.

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

L. S. Bradley - Do Pass

Members NOT concurring in the Majority report:

_____ recommends: no rec

Freeman recommends: No Rec

_____ recommends:

_____ recommends:

_____ recommends:

L. S. Bradley Chairman

AMENDMENT

OFFERED IN THE HOUSE: BY: Commerce Committee

TO: _____ HOUSE BILL No. 258

SENATE BILL No. _____

PAGE: 1 LINE: 18

After the words "board members" delete the words "and compensation in the amount of $100 per day".

March 21, 1975

Representative M. Bradner
Speaker of the House
Juneau, Alaska

Dear Mr. Speaker,

In discussion among the committee members, it was agreed that the speaker should appoint at least one member from the minority to the committee when it is formed.

Sincerely,

Bob Bradley

BB/mr

HB

264

271

NB 264 & 271

Tape No.	Date
25	4/9
24	4/9

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K — STATE CAPITOL
JUNEAU 99801

April 25, 1975

File under HB 271

The Honorable Robert Bradley
Chairman
Commerce Committee
House of Representatives
Pouch V
Juneau, Alaska 99811

RE: Funeral Industry Legislation

Dear Mr. Bradley:

Your letter requesting comment by this department on the preparation of funeral industry legislation has been received.

This department has developed a basic comprehensive funeral industry bill which will be transmitted to the Governor prior to the next legislative session for his consideration as to its inclusion in his legislative package. Portions of the proposed bill are being reviewed, and additional information from experts and interested parties would certainly be useful in their finalization.

The preparation of such a bill does not appear to be extremely complex. However, since your letter indicates that you view the bill otherwise, it might be wise for us to discuss this matter personally in greater detail. Please contact me at 465-3692 or 465-3695 if you wish to arrange for a meeting on this matter.

Ken. Set up a conference with this fellow.

Sincerely,

AVRUM M. GROSS
ATTORNEY GENERAL

By: Theresa L. Bannister
Theresa L. Bannister
Assistant Attorney General
Consumer Protection Section

TLB:nnk

cc: Art Peterson

BOB BRADLEY

state house

CHAIRMAN, COMMERCE COMMITTEE
POUCH V
JUNEAU, ALASKA 99811
465-3824

VICE CHAIRMAN, JUDICIARY
601 N. BRAGAW
ANCHORAGE, ALASKA 99504
272-0275

April 14, 1975

Mr. Avrum Gross
Attorney General
State of Alaska

Dear Avrum,

I have before my committee two bills, HB264 and HB271 dealing with funeral homes in one capacity or another. It's been my impression through conversations with Representative Helen Beirne and others, and through talks with industry representatives that the Hammond administration prior to the session had been discussing submission of an administration bill on the total subject matter of funeral homes.

It's my feeling that because of the complexity, personal impact, and exeptional consumer considerations that it would be in the best interests of the state for the administration over the summer to convene a study group to submit legislation to the second session of this legislature. Members should be representatives of your office from the law sense and the Consumer Protection Division, representatives of the medical profession, representatives from the Department of Commerce, representatives of Health and Social Services, along with possibly the representatives of industry.

The reason why I bring this to your attention is because, frankly, the subject is of such a complex nature but of such an unusual concern and impact, that it's my feeling that the administration is best

equipped to study this problem and to propose standards and regulations and guidelines regarding the overall practices of funeral homes.

I would appreciate a reply on this matter prior to adjournment, and if I can be of any further help through personal contact with your office or otherwise, please let me know.

Sincerely,

Bob Bradley

BB/mr

Bruce Funeral Home

P.O. Box 2351
Anchorage, Alaska 99510

April 5, 1975

Representative Bob Bradley
State House of Representatives
Pouch V
Juneau, Alaska 99801

Dear Mr. Bradley:

I want to thank you for taking time from your busy schedule, especially on a Sunday, to listen to my concerns on House Bills 264 and 271 - and for allowing me to speak before the Commerce Committee while I was in Juneau.

I would welcome the opprotunity to discuss these, or any other bills pertaining to funeral legislation with you at greater length. As you suggested, the whole area might bear some study and scrutiny during the recess between sessions.

I wish I could return to Juneau when House Bill 271 is again studied, but presently that doesn't seem possible. I will, however, keep in touch by phone.

Thanks again for your consideration and kind assistance. If I can provide you with any other information that might be helpful, I will be happy to do so.

Sincerely,

Peggy Witzleben

MARGARET (PEGGY) WITZLEBEN

Bob Bradley

POSITION PAPER

An act relating to the practice of mortuary science and providing for an effective date.

This proposed legislation is being sought and proposed for reasons steming from several different situations. First and foremost of which is a desire by the proposers to give the Alaskan public protection from the unscrupulors and unethical operator and a reason to have confidence in the ethical Alaskan Mortician.

Alaska's present laws concerning the licensing and control of embalmers are among the lowest in the 50 states, and license's embalmers only. It is generally true that most people do not differentiate between the funeral director and an embalmer. We find that the public is best served when the person who comes to their home to remove the remains, embalms the body, makes the funeral arrangements, directs the services, assists them in receiving the necessary legal documents and advises and councils them in many different ways.

When you begin to divide up these tasks and assign them to different individuals it becomes very confusing for those we are serving and adds to their grief. The funeral loses its personal touch and becomes very cross and commercial.

These are but very few institutions in the country that educate just the funeral director or just the embalmer. The direction of funeral service education today is that of educating and training the "whole man." This education ~~unless~~ centers on a college or university program which leads to an Associates Degree or a Bachelor's Degree in Mortuary Science. These programs have come about because the public has recognized that it is not enough to train a man to embalm, or to train him to direct a funeral. Other areas of education such as ethics, morals, counciling, law and the humanities need to be approached and considered.

While no one can guarantee that a graduate of an instituion with higher educational standards is going to be more ethical or competent, past performance indicates that

those states which educate and license the "whole man", have morticians with excellent reputation and few consumer complaints.

Some states have replaced the dual license law, others have never had it, and still others are currently replacing the dual law with a single license law. The Nal F D A. (NATIONAL Funeral Directors Asso.) strongly endorses the single license as being in the best interest of the public and the profession. A dual law is cumbersome to administer and confusing in many ways compared with a single license.

The proposed legislation is drawn from basically four sources. One, from the NFDA proposed law, two; from the Minnesota law, ~~and~~ three; from Oregon law and four, from our present Alaska law.

It is somewhat more stringent in requirements for licensure - basically an increase in educational requirements and a period of apprenticeship. (resident trainie) It is also more stringent in its control of the licenses man as set out in our Revocation of license section.

Reciprocity section grants licensure to any person licensed in another state who basically meets our requirements, and of course, ~~or~~ a grandfather clause grants the new license to those now holding a valid Alaska embalmers license.

Section 08:42.020 #3 sets out the requirements for a permit in areas (bush) not serviced by a licensed mortician, but allows that no person need have a permit in these areas unless he is helping families for componsation.

Section 08.42.110 requires that all funeral establishments must have a permit to operate. This is aimed at corporately held businesses whose owners may not be licensed morticians, and therefore not covered by the Revocation or suspension portions of the bill. The funeral home permit could be revoked if the business is found guilty of any misdeeds as act out in the Revocation section. This was also recommended by the A.G.'s office as an item to include in new legislation.

Section 08.42.120 Preneed Funeral Legislation of this type was recommended by the Consumer Protection Section of the A.G.'s office. This type of legislation is included to give control over funds paid to funeral homes, or preneed promoters, in advance of the death of an individual. The Council of Better Business Bureau's have several pamphlets prepared on Prearranged and Prefinanced funeral plans. The general consensus of these plans say that these plans, unless closely controlled, are fraught with the possibilities of fraud. Any time you pay someone a sum of money for service and merchandise to be provided at a time possibly many years after the payment, make the opportunities for fraud great, and risk of insolvency, with consequent inability to perform, apparent. Forty-three out of the present 50 states leave laws governing (some forbidding) ~~per~~ pre need funeral plans. Of these 43 states 25 states require 100% of the funds received by placed in trust until service are performed or until the money is refunded to the buyer. Twenty-nine states require that all interest or income from the trust becomes our part of the trust and, 21 states require that the buyer can withdraw 100% of the funds in the trust.

The proposed section provides that 100% of the funds received go into a trust. That all interest or income accurred becomes a part of the trust ~~of~~ and that 100% of the trust must be returned to the buyer on his demand.

At present, Alaska has no law concerning Preneed Funeral Plans. We ~~felt~~ feel it is imperative, especially in these "boom" times that these controls be instituted. This is not a restraint of trade, but a protection of the consumer, and should be viewed in that light. Preneed plans are still very much open to the public, but the 30% commission salesman, not controlled by funeral etchics legislation, would be out of the picture. There are large corporations outside who have preneed sales forces operating in many states. The companies do, however, pay salesmen, not out of the funds paid by the preneed buyer, but from profits made in the legitimate operation of funeral homes which they

own. As long as the preneed funds are placed in trust until service are performed, and the buyer retains the option to end the plan and get all this money back with interest we feel this is legitimate. The state must provide this control.

Section 08.42.130 disclosure of costs. This is an answer to the Federal Fair Trade laws which will require the itemizaiton of funeral costs. This is a form recommended by the NFØA and I believe taken from the Oregon laws. It is tight enough that the public is made aware of what they are paying for, and how they must pay for it yet loose enough to give a funeral home some leaway in sensibily pricing their services and merchandise. It has been found in states with extremely detailed itemization requirements that funeral costs have gone up for the consumer. New York is a good example. This law as written is excellent and should not be further detailed.

Chapter 44, Section 08.44.010 is the enabling legislation for our present ~~rules~~ rules governing embalmers. Totally in adequate, and I'm sure that the rules and regulations promulgated by the Department of Health and Social Services in Regulation 37, Title 7, Chapter 89 would have difficulty in standing under legal pressures. Red Morely of the Division of Environmental Health, Health and Social Services has given an un-official vote of confidence to this new proposed bill. ~~His~~ He is not, however, in a position to give an official endorsement.

The licensing of morticians and their examination should fall under the Commerce Department as do most professions. The promulgation of rules and regulations and the general health portions of this bill should remain with Health and Social Services.

We are currently licensed by Department of Revenue.

Respectfully,

R.D. Rome
Evergreen Memorial Chapel Inc.

Representing: R.D. Rome, R.J. Franke, Dale Rosenberg, Lee Moeglein, Gregory Jerich, Bob Britt and Gary Rook - all currently licensed embalmers in the State of Alaska.

In reference to H.B. 271

Testimony by: Margaret E. (Peggy) Witzleben
Owner - Bruce Funeral Home
P.O. Box 2351
Anchorage, Alaska 99510
279-1963 or 279-7786

ARTICLE 4 - FUNERALS
Sec. 45.45.120 Disclosure of Costs

I would like to begin by saying that I am in total and complete agreement with the need of cost disclosure legislation to more fully protect the consumer. It is, and has been, our company's policy to provide the families we serve with an itemized funeral purchase order that lists all services, merchandise and accomodations, as suggested by the Federal Trade Commission. A copy of our purchase order is attached.

I do feel that House Bill 271, as presently written, does not go far enough. Please note that Section 45.45.120. (1) still allows lump sum pricing as opposed to itemized categorized pricing. No where does it require a separate item category for casket specifications and price.

I would like to suggest the following changes and additions to House Bill 271 (See attachment).

RATIONAL:

In addition to our wish to better inform and serve families, there are some unique problems in funeral service that, I feel, bear consideration.

The words "of rendering the service" in lines 4 and 5 of the present bill, place the funeral establishment in an impossible position. Some service MUST, in fact, be rendered by a funeral establishment

BEFORE the completion of arrangements by the survivor(s) if, as is frequently the case, the survivor(s): 1. cannot be immediately notified of the death or 2. is not immediately available to complete the necessary arrangements. These services include removal of the remains from the place of death to the funeral home and the embalming of the remains as specified by the State Administrative Code.

If enacted as presently written, I can foresee the following abuse. The State administrative code says that a funeral establishment must not hold a remains if the person entitled to its custody (the survivor) has requested its release to another establishment. We have no quarrel with this. However, it has been our experience that a certain funeral establishment, when belatedly selected by a family, refuses to pay the first funeral establishment for its services - and has instructed the family that is is not their duty to do so either. The second funeral home then charges the family a full lump sum service charge, including those services actually performed by another establishment. The cost of those services, in terms of staff time, facility and equipment usage are not insignificant.

For these reasons, we feel that you should seriously consider the ammendments and additions we have suggested. We feel that they will provide more comprehensive legislation that:

1. Protects the consumer by requiring more complete itemization as suggested by the Federal Trade Commission;

2. Requires that the funeral establishment maintain a copy of the written contract in its files along with other records for a period of five years as is required by the Alaska Vital Statistics Act - AS 18.50.340.(d);

Bruce Funeral Home

P.O. Box 2351
Anchorage, Alaska 99510

DATE:

FUNERAL EXPENSES FOR:

ORDERED BY:

FUNERAL PURCHASE ORDER

CASKET SELECTION . . . . . $_____

PROFESSIONAL & PERSONAL SERVICES . . . . . _____

USE OF MORTUARY FACILITIES & EQUIPMENT . . . . . _____

CEMETERY EXPENSES:

GRAVE SPACE(s) . . . . . _____

OPENING & CLOSING OF GRAVE . . . . . _____

VAULT, LINER, OTHER. . . . . _____

MARKER SETTING FEE . . . . . _____

GRAVE MARKER: DESIGN #_____, SIZE ____x____, NAME_____ . . _____

TRANSPORTATION (OUTSIDE LOCAL ZONE). . . . . _____

CERTIFIED COPIES OF DEATH CERTIFICATE (#_____). . . . . _____

ACKNOWLEDGEMENTS (Minister)(Organist)(Vocalist). . . . . _____

MISCELLANEOUS. . . . . _____

TOTAL CHARGES. . . . . $_____

LESS: (Deposit_____)(Soc. Sec._____)(Vet. Ben._____)(Other_____) _____

BALANCE DUE ON ACCOUNT . . . . . $_____

I (we) hereby authorize the above Funeral Expenses, and I (we) hereby represent that I (we) have sufficient resources or that the estate of the above-named deceased has resources legally available to Alaska Memorial Services, Inc, dba Bruce Funeral Home, for the payment of the aforesaid sum, and I (we) hereby covenant and agree to pay the same. Terms of the contract shall be Net in 30 days, followed by finance charges applying Periodic Rates of 1.5% of that portion of the adjusted balance up to $1,000.00 and 1% to any excess over $1,000.00 (subject to a minimum charge of 50 cents on balance of $5.00 to $33.00), with an ANNUAL PERCENTAGE RATE OF 18% on that portion of the Adjusted Balance up to $1,000.00 and 12% on any excess over $1000.00. ESTATE PAYMENT (including filing of claim for payment within 12 months) $_____. This reflects a 12% finance charge or $_____. Annual percentage rate is 12%.

I(we) acknowledge receipt of a completed copy of this statement at the time of execution.

_____

_____

REPRESENTATIVE OF FUNERAL HOME:_____

3. Discloses costs to the family when more than one funeral establishment is involved and protects the initial funeral establishment's right to receive compensation for services rendered.

If you have any further questions, please feel free to contact me either by phone or mail.

MARGARET E. WITZLEBEN

2 Attachments:

1 - Copy of present Funeral Purchase Order by Bruce Funeral Home

1 - Suggested Amendments and Additions to House Bill 271

LIST OF WHAT IS INCLUDED IN REFERENCED CATEGORIES:

1. PROFESSIONAL AND PERSONAL SERVICES -

a. Preparation of the remains (disinfection, preservation and restoration) and other specialized care.

b. Staff assistance from place of death, at mortuary, at place of service and cemetery, crematory or common carrier terminal.

c. Procurement and recording of all vital statistics, certified copies and permits.

d. Notification of Newspapers, both locally and out of town.

e. 24 hour response to wishes of family or legal authorities for the removal of human remains fror place of death.

f. 24 hour attention to all details and supervision of all arrangements pertaining to services, clergy, cemetery, crematory or common carrier.

g. Assistance with legal authorities in the investigation of deaths (autopsies) at funeral establishment.

h. Assistance with insurance. social security benefits, veterans administration benefits, labor organizations benefits and the direction of families to the necessary offices regarding legal procedures.

2. USE OF MORTUARY FACILITIES AND EQUIPMENT -

a. All mortuary facilities:

(1) Operating Room to include: Embalming Equipment (Tables and machines); Embalming Fluids; Other Embalming Chemicals; Specialized instruments; Cosmetics; Hair styling equipment and supplies; and other necessary materials (i.e. gloves, aprons, cotton, thread, cleaning disinfecting solutions and sanitary equipment).

(2) Chapel: For use during services and/or visitations to include all its furnishings..

(3) All equipment used in chapel, church, lodge and/or graveside services.

(4) Music before and after services and throughout the period of visitation.

(5) Equipment necessary for the care, placement and transportatio of flowers

b. Service Car with cot(s) and funeral coach with driver (supplied only within the limits of our local zone).

c. Other specialized equipment for handling of remains (i.e. disaster pouches and sealers).

d. Office equipment and supplies (i.e. desk, filing cabinet, chairs, typewriter, and other office equipment; paper materials, manuals, trade journals, postage, public information and utilities necessary to the maintenance and operation of the business.)

e. Building maintenance and building and grounds maintenance equipment and supplies. (i.e. carpentery, electrical or plumbing; light bulbs, cleaning supplies, paint, brooms, snow shovels, lawnmower, ladder, tools, etc.)

f. Memorial Ensemble (Register Book, Service Folders, Acknowledgement Cards and Clergy Record.

3. CASKETS - A diverse inventory of both adult and children caskets for the benefit of the families served.

4. TYPICAL ITEMS OF CASH ADVANCEMENTS -

Family Car; Special Music; Clergymen's, Organist and/or Vocalist Honorarium; Toll Calls and Telegrams; Cemetery Charges; Common Carrier Charges; Certified Copies of Death Certificate, Crematory Charges, Obituaries (if charged by newspapers) and Clothing.

SUGGESTED AMENDMENTS AND ADDITIONS TO HOUSE BILL 271

Sec. 45.45.120. DISCLOSURE OF COSTS. 1. Every person performing services or providing merchandise relating to the disposition of a dead human body shall give to the person arranging for the disposition, at the time the arrangements are completed, and before the time of providing the merchandise, a written statement (contract) itemizing all merchandise, services and all accomodations by the way of cash advancement on behalf of the purchaser in connection with the care of the decedent(s). Such contractual itemization shall include the following minimum categories:

(A) Professional services, Use of facilities and equipment.

(B) Casket Manufacture, manufacturer's description and retail price.

(C) Supplemental items of service or merchandise, and the price of each item.

(D) If known, the cost of the items or services for which funds will be advanced as an accomodation.

(E) Terms and method of payment.

2. The written contract shall be dated and signed by the purchaser and by the person providing services and merchandise or his agents. The original contract shall be retained by the person operating the funeral establishment for at least five years and shall be open to inspection of the State. A duplicate of the written contract shall be given to the purchaser at the time of its execution.

3. No funeral establishment shall ever interfere when another funeral establishment has been called to take charge of a decedent. Under no circumstances shall one funeral establishment take charge of a decedent until the funeral establishment first called upon has been compensated for his services, has issued an itemized receipt for services rendered to the second funeral establishment and then has withdrawn. This paid receipt will then become part of the funeral records on said decedent(s).

In reference to H.B. 264

Testimony by: Margaret E. (Peggy) Witzleben
Owner - Bruce Funeral Home
P. O. Box 2351
Anchorage, Alaska 99510
279-1963 or 279-7786

Section 1. AS45.50.471 (22)

This bill pupports to protect the consumer by insuring that any money paid by him/her into a pre-need funeral arrangement be secured in a trust account "in a financial institution whose deposits are insurred by an instrumentality of the federal government as a separate account in the name of the person benefitted" (lines 5-8). This purpose of this bill is NOT protection of the consumer however, but rather the protection of a small special-interest group controlled by a large Anchorage funeral establishment. The owner of that establishment has sworn to spend his last dollar seeing that pre-need plans are outlawed in Alaska. And why? Not because of the potential for fraud that he so nobly proclaims is his motivation - but because funeral home traditionally make larger sales and hence, larger profits, at-need (or the actual time of death) than they do if dealing with families who are planning for future eventualities at an unemotional, ungrief laden time. These are hard words, not ment to be taken as a general indictment of the funeral service industry, but only of those elements who have earned them by their statements and actions.

There are, in fact, precedents for pre-need plans in other states. They are operating successfully, and to the benefit of the consumer, in Hawaii, Colorado, Utah, Kansas, Texas, Missouri and Nevada (this is not a full list).

What is pre-need and how did it come about here?

Pre-need is a program whereby an individual can select the kind of final

services he/she would like (be that a traditional funeral, a memorial service, burial or cremation), and pay for it at current contract prices in installments that fit his budget, when he is working and best able to pay for it. It provides a hedge against inflation as no burial insurance policy can, because the sum survivors receive from burial insurance is only as good as the inflated market at the time of death. A pre-need plan provides a paid-up final service and burial or cremation no matter what inflation has done to at-need costs. The individual purchasing the plan can feel confident that a grief stricken survivor will not be pressured into an expensive contract that must be paid off in thirty to ninety days. Cash on hand can then be used by the survivors to pay other necessary day to day expenses.

A pre-need plan covers all normal funeral expenses: local transportation of the remains, embalming, specified casket, all services of the funeral home, final services, grave space (plus opening and closing costs) in a perpetual care cemetery, concrete burial vault and marker, or cremation. Incidental expenses such as minister, organist, vocalist honorariums, flowers and certified copies of the death certificate are not, however, included. Plans that cover just burial costs, excluding funeral home charges, can also be purchased at the discretion of the consumer.

The plan that is presently operating in Anchorage evolved from the requests of families for a better, more comprehensive plan. One of the Valley Memory Gardens trustees began selling only cemetery lots in 1955. In 1962, at the request of families he began selling burial plans which included all cemetery costs - grave space, opening and closing costs,

concrete burial vaults and markers. In 1967, again at the request of families, he began selling complete pre-need funeral plans as I have described earlier.

In the thirteen years since his program began, over two thousand contracts have been sold in the Anchorage area. Approximately 47 of those contracts have been serviced - both in and out of Alaska (one in New York at a sizable additional expense which was absorbed by the Trust). A survey of families has indicated overwhelming satisfaction with the way plans have been sold and serviced.

A word about the selling of plans - high pressure salesmanship is definately not encouraged. Cards are sent out an area at a time asking if the receiver would be interested in hearing about the plans available. If he returns the card with an affirmative reply, a salesman is sent out to contact him. Personal referrals are also contacted.

No one has ever lost money on the plans being sold by the Valley Memory Gardens Trust. If, for some reason, the actual cost to the Trust has been more than anticipated, the Trust has absorbed the difference - with the exception, that if a survivor prefers to purchase a more expensive casket, he must pay that difference himself.

There are additional cost-free benefits to families holding Valley Memory Gardens plans. If the head of the household dies before he has completed paying for the contract, the balance is liquidated and absorbed by the Trust with full benefits provided.

Also, if a family loses one or more children under the age of eighteen,

the full services of the plan they carry are provided for the dependent FREE OF CHARGE. Those services are provided in addition to the services for the family members specifically covered by the plan (the parents). The additional cost is absorbed by the Trust. No burial insurance plan, that I know of, does this, nor individual plans as would be set up under this bill.

In closing, let me say this, the people who oppose pre-need plans and who seek to get House Bill 264 passed, are not concerned with benefit to the consumer. They say, that in addition to the potential for fraud, they feel that no one who is not a funeral director should earn a commission on any part of funeral service. They call it solicitation. I won't even deal with that arguement because I feel that the brief prepared by a knowledgeable Illinois law firm* which I have given the committee chairman does a far better job than I can of refuting that cry. What they hope to accomplish with this bill is to eliminate the part of the Trust earnings (the interest) that enable the Trust to: 1. Pay the necessary operating expenses of the plan (salesmen's commissions, office costs, etc.); 2. Publicize the benefits of pre-need funeral plans to the public; and 3. Provide the extra benefits I have already mentioned.

The basic question, I guess is this: Can a small special interest group FORCE the public, by this Bill, to buy funeral services only at-need?

MARGARET E. WITZLEBEN

* Fiffer & D'Angelo, Suite 1100-209
S. LaSalle Street, Chicago, Ill 60604

HB

276

HB 276

Tape #	Date
17	3/24
18	3/24
20	3/26

"An Act providing for the licensing of real estate appraisers."

3/10/75 **COMMITTEE REPORT** JUDICIARY

HOUSE

Mr. Speaker: Date _____

The Committee on COMMERCE has had HB 276 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

(X) recommends it BE REPLACED WITH CS FOR 276 AND THAT CS FOR 276 DO PASS as amended

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

P. S. Bradley — Freeman —

John M. Fraser — Lynn Hollis —

Ann Brotz — Bob Ish —

Kenneth Kelly —

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

P. S. Bradley Chairman

AMENDMENT

OFFERED IN THE HOUSE: BY: Commerce Committee

To: _____ HOUSE BILL No. CSHB 276

SENATE BILL No. _____

PAGE: 3 LINE: 7

Line 7, Page 3

After the words "financial institution" add the words "except those employees who are engaged in appraising for public acquisition."

POINT No. 1

COST OF ADMINISTERING THE BILL

SEC. 08.89.030 STATES THAT THE COMMISSIONER OF COMMERCE IS TO BE THE EXECUTIVE SECRETARY OF THE COMMISSION. UNDER SECT. 08.89.020, HIS POWERS AND DUTIES WOULD REQUIRE NOT LESS THAN TWO PEOPLE TO KEEP SUCH AN OFFICE OPEN TO THE PUBLIC AND KEEP THE REQUIRED RECORDS. BY A HEAD COUNT OF FIRMS AND INDIVIDUALS WHO ARE MEMBERS OF ALASKA APPRAISAL ORGANIZATIONS AND OTHERS, SUCH AS REALTORS; IN TOTAL, IN THE STATE OF ALASKA, WE ARE TALKING ABOUT 75 OR LESS PERSONS. IT DOESN'T REQUIRE MUCH MATH TO FIGURE THAT THE INCOME FROM SUCH A BILL WOULD ONLY PRODUCE ABOUT $7,500 THE FIRST YEAR AT $100.00 EACH; $3,700 PER YEAR PLUS NEW LICENSES AND EXAMINATION FEES. THIS CAN NOT POSSIBLY START TO OFFSET THE COST OF $20,000 TO $25,000 PER YEAR TO ADMINISTRATION.

MR. CHAIRMAN AND COMMITTEE MEMBERS: I THANK YOU FOR ALLOWING ME TO BE HEARD ON HB 276.

I AM LEWIS W. STURGES REVIEW APPRAISER FOR THE DEPARTMENT OF HIGHWAYS, BUT I APPEAR BEFORE YOU AS AN INDIVIDUAL, NOT A REPRESENTATIVE OF THE HIGHWAY DEPARTMENT. I HAVE SEVENTEEN YEARS OF APPRAISAL AND REVIEWING EXPERIENCE.

I WOULD LIKE TO MAKE FOUR POINTS AGAINST THE PASSAGE OF THIS BILL.

POINT No. 2

RESTRICTION AND ERADICATION OF PUBLIC AGENCIES EMPLOYMENT OF STAFF APPRAISERS AND THEIR CONTINUING EDUCATION OF PROPER APPRAISAL PRACTICES.

SEC. 08.89.060 OF THIS BILL IS SELF SERVING TO ELIMINATE PUBLIC AGENCIES FROM HAVING THEIR OWN APPRAISAL STAFFS, AND TO FORCE THESE AGENCIES TO HIRE FEE APPRAISERS AT AN INCREASED COST TO THE STATE OR AGENCY.

TO QUOTE:

SEC. 08.89.060. EXEMPTION. THE REQUIREMENTS OF SECTION 50 OF THIS CHAPTER DOES NOT APPLY TO REAL ESTATE APPRAISERS WHO ARE SALARIED EMPLOYEES OF THE UNITED STATES, THE STATE, OR POLITICAL SUBDIVISION OR MUNICIPALITY OF THE STATE, OR OF FINANCIAL INSTITUTIONS, <u>EXCEPT THOSE EMPLOYEES WHO ARE ENGAGED IN APPRAISING FOR PUBLIC ACQUISITION</u>.

THIS IS CLEARLY AIMED AT THE DEPARTMENT OF HIGHWAYS WHO TRAINS AND MAINTAINS A STAFF OF APPRAISERS. IT WOULD ALSO SERIOUSLY CRIPPLE IF NOT ELIMINATE THE TRAINING PROGRAM THAT THE HIGHWAY DEPARTMENT HAS DEVELOPED AND OPENED TO ALL PUBLIC AGENCIES OVER THE LAST FIVE YEARS.

ONE OTHER LARGE ITEM IN TRAINING AND ADVANCEMENT OF THE APPRAISAL PROFESSION THAT SEEMS TO HAVE BEEN FORGOTTEN BY THE PEOPLE PROMOTING THIS BILL IS THAT WITHOUT THE SUPPORT OF THESE SAME PUBLIC AGENCIES; THE EDUCATION SCHOOLS AND SEMINARS OF THE PAST WOULD HAVE BEEN VIRTUALLY IMPOSSIBLE TO FINANCE.

POINT No. 3

EXCESSIVE REQUIREMENTS

SEC. 08.89.120 EXCEPTION FO REQUIREMENTS. (GRANDFATHER CLAUSE)

(A) FOR SIX MONTHS FOLLOWING THE EFFECTIVE DATE OF THIS CHAPTER, THE COMMISSION SHALL WAIVE THE REQUIREMENTS OF EXAMINATION FOR A RESIDENT APPLICANT

(B) FOR SIX MONTHS FOLLOWING THE EFFECTIVE DATE OF THIS CHAPTER, THE COMMISSION SHALL WAIVE THE REQUIREMENTS OF EXAMINATION FOR A RESIDENT APPLICANT FOR A GENERAL APPRAISER LICENSE;

I HAVE NO QUARREL WITH THIS SECTION OF THE ACT EXCEPT AS IT ALUDES TO THE CONTENTS OF THE EXAMINATIONS FOR BOTH RESIDENTIAL AND GENERAL REAL ESTATE APPRAISER.

SEC. 08.89.100(A)(5) ON THE RESIDENTIAL EXAMINATION STATES THAT:

KNOWLEDGE OF THE LAW APPLICABLE TO REAL ESTATE IN ALASKA,

AND (B)(4) ON THE CONTENTS OF THE EXAMINATION FOR GENERAL REAL ESTATE APPRAISER LICENSE, STATES THAT:

KNOWLEDGE OF REAL ESTATE FINANCING IN ALASKA INCLUDING LEGAL RAMIFICATIONS OF FINANCIAL DOCUMENTS NORMALLY USED, KNOWLEDGE OF ALASKA USURY LAWS, AND KNOWLEDGE OF STATE CREATED FINANCING AGENCIES INCLUDING KNOWLEDGE OF THEIR LOAN QUALIFICATIONS, LIMITS, AND INTEREST RATES.

THESE TWO SUBSECTIONS HAVE NO BUSINESS IN AN APPRAISAL LICENSING BILL.

ATTACHED TO THIS PAPER ARE STATEMENTS OF CONDITIONS AND ASSUMPTION WHICH ARE A PART OF APPRAISALS SUBMITTED BY FOUR PROMOTERS OF THIS ACT WHICH BY THEIR OWN WRITING THEY ARE NOT RESPONSIBLE FOR:

(A) TITLE; (B) BOUNDRIES OF THE PROPERTY; (C) ENCUMBRANCES;

(D) ENCROACHMENTS; (E) EASEMENTS; (F) MATTERS OF A LEGAL NATURE; (G) WHETHER TAXES AND ASSESSMENTS HAVE BEEN PAID; (H) OR OWNERSHIP OF THE PROPERTY APPRAISED.

WHEN COMPARED WITH SEC. 08.39.100(B)(4), THIS IS ESSENCE IN HIPPOCRACY, AND INFRINGES ON THE LEGAL PROFESSION.

ALSO ATTACHED ARE EXCERPTS FROM THE TEXTS USED BOTH BY THE INSTITUTE OF REAL ESTATE APPRAISERS AND THE SOCIETY OF REAL ESTATE APPRAISERS, ALUDING TO EXCLUSION FROM THE APPRAISAL MATTERS OF TITLE, LAW, ETC., . FROM APPRAISALS.

POINT No. 4

LICENSING IS OPPOSED BY THE SOCIETY OF REAL ESTATE APPRAISERS, SEE ATTACHED APPRAISAL BRIEF DATED MAY 30, 1973. NOTHING HAS COME TO MY ATTENTION REVERSING THIS POLICY STATEMENT, AND I AM A REGULAR SUBSCRIBER TO THIS NEWS BRIEF.

A REVIEW OF THIS PROPOSED BILL; IT IS:

1. COSTLY TO THE STATE
2. RESTRICTIVE AND CRIPPLING TO THE STATE'S TRAINING PROGRAM
3. DISCRIMINATORY AND SELF SERVING
4. DOES NOT CONFORM TO THE NATIONAL POLICY OF THE MAJOR APPRAISAL ORGANIZATIONS OR ENHANCE PROFESSIONAL LEARNING

THANK YOU FOR YOUR INDULGENCE ON THIS PRESENTATION.

GENERAL ASSUMPTIONS AND LIMITING CONDITIONS

1. Reproduction of this report or distribution to other than associates of the client, financial institutions or to attorneys in condemnation cases is prohibited without written permission of the authors. Distribution, for instance to promote a sale of the property, is permitted only after the appraiser has edited the report to eliminate certain comparable information of a confidential nature, and provided that use of the entire, edited report is required, with no alterations.

2. Disclosure of the contents of this report is further governed by the By-Laws and Regulations of the American Institute of Real Estate Appraisers of the National Association of Real Estate Boards. Neither all, nor any part, of the contents of this report (especially any conclusions as to value, the identity of the appraisers, or any reference to the American Institute of Real Estate Appraisers or the M.A.I. designation) shall be disseminated to the public through advertising media, public relations media, news media, sales media or any other public means of communication, without the prior written consent and approval of the authors.

3. This report bears an effective date of appraisal, and is based upon data known at that time, or reasonably construed to have been available at that time, and events since that date most probably have changed Subject value, sometimes radically in our present economy.

4. The property is appraised as if free and clear unless noted otherwise, with no responsibility assumed for title and legal matters.

5. All information supplied or found through available records and sources is assumed correct unless noted otherwise. If errors are found, the right is reserved to modify the conclusions.

6. The data and conclusions embodied in this appraisal are a part of the whole valuation. Any part of this appraisal may or may not stand alone, is not to be used out of context, and constitutes only part of the evidence upon which a value judgement of the whole is based.

7. The appraisal does not imply the right to court testimony on the part of the appraisers without mutually satisfactory arrangements.

8. Fair Market Value is defined as the highest price estimated in terms of money which a property will bring if exposed for sale in the open market, allowing a reasonable time to find a willing purchaser who buys with knowledge of all the uses to which it is adapted and for which it is capable of being used.

ASSUMPTIONS AND LIMITING CONDITIONS

1. It is assumed that title to the property appraised is good and marketable.

2. Value is estimated without regard to questions of title, boundaries, encumbrances or encroachments unless otherwise stipulated in the individual reports.

3. No responsibility is assumed for matters of a legal nature.

4. It is assumed that all taxes and assessments have been paid.

5. Value is reported in dollars on the basis of the currency prevailing on the date of the appraisal.

6. That where the valuations of the land and the improvements thereon are shown or itemized separately, the value of each is segregated only to serve as an aid to better estimate the value of the whole ownership and what each contributes to the market value of the entire property, and the individual itemized amount for each component part is not intended for use by itself as it may or may not be its correct market value as a separate entity.

7. It is assumed that the data, statistics, estimates, and opinions furnished by others as indicated in the appraisal report are correct, and no responsibility for their accuracy is assumed by the appraiser.

8. That this appraisal is made in conformance with all laws of the State of Alaska known by this appraiser; and the regulations, procedures, policies and instructions of the State of Alaska, Department of Highways, which are applicable to and commensurate with the appraisal of right of ways, and to the best knowledge of this appraiser, no valuation, opinions or conclusions are assigned or reported which may not be compensable under the laws of the State of Alaska or which may be contrary to the opinions of its Attorney General.

9. That in the event of any future required court appearance of testimony of any kind in connection with this appraisal, this appraiser reserves the right to make any alterations, changes or corrections which may be felt necessary in order to recognize any possible change in market conditions or revisions in the engineering or construction plans of this proposed highway project which may arise between the date of the appraisal and the date of the taking of right-of-way or the date of such court appearance or testimony.

10. That no minerals, mineral rights or mineral interests are appraised, except as directly affecting the surface rights of ownership or land use of the subject property.

ASSUMPTIONS AND LIMITING CONDITIONS

11. That in computing and itemizing the final estimate of value of the total ownership, the remainder and the right-of-way to be acquired, the figures have been adjusted to the nearest significant amounts.

12. Unless otherwise specified within the report, it is assumed that the utilities to the remainder will be unchanged, or that if during the construction process certain utilities are relocated, the remainder will be provided with an alternate connection that is as functional and convenient as were the utility connections before the taking.

13. That the methods, procedures, and techniques employed in making this appraisal are in conformance with recognized standards of appraisal practice and code of ethics as advocated by the American Institute of Real Estate Appraisers.

14. Neither all nor any part of the contents of this report may be dissemiated to the public through advertising media, public relations media, news media, sales media or any other public means of communication without the prior written consent and approval of the author of this appraisal report.

ASSUMPTIONS AND LIMITING CONDITIONS

1. No legal questions are considered in this analysis, such as titles, encumbrances, etc.. The property is considered as if free and clear.

2. All dimensions and legal descriptions are assumed to be correct, as furnished.

3. All information, as found in data furnished, is deemed to be reliable. If any errors are found, the right is reserved to modify the conclusions reached.

4. No study has been made to determine whether structures may have an infestation, such as termites or dry rot. In the absence of such study, it is assumed the property is free of such problems.

5. While various "approaches to value" and various mathematical calculations have been used in estimating value, these are but aids to the formulation of the opinion of value expressed by the appraiser in this report. In these calculations, certain arithmetical figures are rounded off to the nearest significant amount.

6. The data and conclusions embodied in this appraisal are a part of the whole valuation. No part of this appraisal is to be used out of context; and, by itself alone, no part of this appraisal is necessarily correct, as being only part of the evidence upon which final judgment as to value is based.

7. Employment to make this appraisal does not require testimony in court, unless mutually satisfactory arrangements are made in advance.

8. This appraisal is made in accordance with the standards of the American Institute of Real Estate Appraisers.

9. Fair Market Value is defined as "the price it (the real estate) will bring between a willing buyer and a willing seller, with equity to both.

10. This report is delivered subject to the stipulation that neither all nor any part of the contents shall be conveyed to the public media through advertising, public relations, news, sales or any other media without the written consent and approval of the author, particularly as to valuation conclusions, the identity of the appraiser, his firm, or any reference to the American Institute of Real Estate Appraisers.

STATEMENT OF CONDITIONS AND ASSUMPTIONS

1. It is assumed that title to the property appraised is good and marketable.

2. Value is estimated without regard to questions of title, boundaries, encumbrances, or encroachments.

3. No responsibility is assumed for matters of a legal nature.

4. It is assumed that all taxes and assessments have been paid.

5. Value is reported in dollars on the basis of the currency prevailing on the date of the appraisal, May 15, 19 9.

6. That where the valuations, of the land and the improvements thereon, are shown or itemized separately, the value of each is segregated only to serve as an aid to better estimate the value of the whole ownership and what each contributes to the market value of the entire property, and the individual itemized amount for each component part is not intended for use by itself as it may or may not be its correct market value as a separate entity.

7. It is assumed that the data, statistics, estimates, and opinions furnished by others as indicated in the appraisal report are correct, and no responsibility for their accuracy is assumed by the appraiser.

8. That this appraisal is made in conformance with all laws of the State of Alaska, known by this appraiser; and the regulations, procedures, policies and instructions of the State of

Alaska, Department of Highways, which are applicable to and commensurate with the appraisal of rights of way; and to the best knowledge of this appraiser, no valuation; opinions or conclusions are assigned or reported which may not be compensable under the laws of the State of Alaska, or which may be contrary to the opinion of its Attorney General.

9. That in the event of any future required court appearance or testimony of any kind, in connection with this appraisal, this appraiser reserves the right to make any alterations, changes or corrections, which may be felt necessary in order to recognize any possible change in market conditions, or revisions in the engineering or construction plans of this proposed highway project, which may arise between the date of this appraisal and the date of the taking of right of way, or the date of such court appearance or testimony.

10. That no minerals, mineral rights or mineral interests are appraised, except as directly affecting the surface rights of ownership or land use of the subject property.

11. That in computing and itemizing the final estimate of value, of the total ownership, the remainder and the right of way to be acquired, the figures have been adjusted to the nearest significant amounts.

12. That the methods, procedures and techniques employed in making this appraisal are in conformance with recognized standards of appraisal practice and code of ethics, as advocated by the American Institute of Real Estate Appraisers.

Contingent and Limiting Conditions

If there are not too many limiting conditions, they may be stated somewhere in the letter of transmittal, or the combined letter and certification, or in the section which identifies the property. Although these are negative statements, for the appraiser's protection and for the information and protection of the client and others using the report, appropriate contingent and limiting conditions should be set forth. A complete statement might be as follows:

THIS APPRAISAL IS SUBJECT TO THE FOLLOWING LIMITING CONDITIONS:

The legal description furnished us is assumed to be correct. We take no responsibility for matters legal in character nor do we render any opinion as to the title, which is assumed to be good. All existing liens and encumbrances have been disregarded and the property is appraised as though free and clear under responsible ownership and competent management.

The sketch in this report is included to assist the reader in visualizing the property. We have made no survey of the property and assume no responsibility in connection with such matters.

We believe the information which was furnished to us by others to be reliable, but we assume no responsibility for its accuracy.

Possession of this report, or a copy thereof, does not carry with it the right of publication, nor may it be used for any purpose by any but the applicant without the previous written consent of the appraiser or the applicant and then only with proper qualification.

We are not required to give testimony or to appear in court by reason of this appraisal, with reference to the property in question, unless arrangements have been previously made therefor.

The distribution of the total valuation in this report between land and improvements applies only under the existing program of utilization. The separate valuations for land and building must not be used in conjunction with any other appraisal and are invalid if so used.

Qualifications of the Appraiser

A statement of the diversified qualifications of the appraiser usually is included in the appraisal report as evidence that he is qualified to make such an appraisal. Such statements include facts about the appraiser's education, technical training, type and years of experience, trade and professional organizations of which he is

Ring 2nd ed 1970

4. Make a preliminary estimate of the time, labor, and expense involved in the completion of the appraisal assignment, and secure a written request for the appraisal services in which should be stated the fee agreed on for services to be rendered.
5. Plan the appraisal, assign the work details, and assemble the essential appraisal data.
6. Make a study of the general economic, social, and political influences which bear on the value of the property to be appraised.
7. Analyze the appraisal data, and reach a value conclusion under each of the following approaches to value: cost, market, and income.
8. Correlate the value findings.
9. Submit an appraisal report.[1]

The first and most important step in the process is to determine the appraisal problem. Some owners, buyers, or investors are not only interested in ascertaining an accurate estimate of value but also expect information regarding ownership or title interests, rights of tenants, property encroachments, claims of mortgagees and other lienors, conditions shown by accurate survey, tax liens, violations, and so forth. The appraiser should not accept the valuation assignment unless the client clearly understands the limits of the appraiser's professional responsibility and the area of study to which his specialized knowledge is confined. The appraiser, in essence, practices in the field of economics—for value is in fact the heart of economics. The appraiser should not consider himself a lawyer, architect, builder, engineer, surveyor, or title abstractor. If his client requests information in these specialized fields, authority should be secured to engage such qualified experts as the problem necessitates, arranging for independent compensation of the outside firms or individuals called on for the specified service. Unless otherwise stated, the appraiser must assume (1) that the title is held in fee simple and that no legal claims, easements, restrictions, or other rights affect the title or use of the property except those stated to the appraiser by the applicant; (2) that the title and his valuation are subject to corrections which an accurate survey of the property may reveal; (3) that the sale of the property will be on a cash or cash equivalent basis, since good or cumbersome financial arrangements do affect the price at which the property may sell in the market; and (4) that no responsibility can be taken by the appraiser for matters legal in character.

Some valuation problems, too, require special owner or tenant cooperation or aid from neighboring property owners or users. Where such is the case, the assignment must be accepted contingent on the cooperation of the parties involved. Only when the problem is clearly defined, and its

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[1] Alfred A. Ring and Nelson L. North, *Real Estate Principles and Practices* (Englewood Cliffs, N. J.: Prentice-Hall, Inc., 6th ed., 1967), Chapter 23.

Stronger Licensing Stand

Society Will Not Support Model Bill

The Society has adopted a new policy statement that strengthens its opposition to licensing of real estate appraisers.

The new position is that the Society is "opposed to the licensing of appraisers in any form," including licensing under the provisions of a model bill once prepared by the Society and the American Institute of Real Estate Appraisers.

The bill was drafted for support in states where licensing was "imminent."

Now under the new policy statement, chapters in a state where licensing has been proposed could not actively support the model bill, though they could submit it for review of legislators who are drafting licensing bills.

The executive committee of the Society adopted the newer, stronger policy statement with the authority of the Board of Governors. Committee members agreed that to be opposed to licensing while in favor of model bill was basically an inconsistent policy.

They were also influenced to adopt a stronger policy by recommendations of the New York State commission on eminent domain to its legislature, which were published in *Appraisal Briefs*, (April 4).

A commission report said that licensing would not remedy the complaints of the court that testimony of expert witnesses was often partisan, poorly prepared and unsupported, nor eliminate disparity between appraisals of the same property.

It pointed out that the standards and techniques within the profession were rapidly improving. Summarizing the report, the New York commission said:

"We personally do not see, however, that State licensing is likely to accomplish the goal of insuring that real estate experts appearing in condemnation cases be truly qualified. The result could be to freeze or dignify mediocrity.

"The appraisal field, as mentioned, is a youthful and developing field that has made great strides in upgrading its own profession through work of its various societies. It is quite possible that many appraisers who would otherwise embark on a difficult and demanding, disciplined program of training, examination and demonstration now required by one of several of these major societies will consider State licensing sufficient evidence of his expertise."

In several states where licensing has been proposed, the objections of designated appraisers have been centered on the level of educational requirements, and so-called "grandfather" clauses which would permit the waiver of examination and other requirements for applicants who could show they are practicing appraisers.

Governors and Vice Governors have been asked to report the action of legislators on bills introduced in their states.

Volume 8 • Number 22 MAY 30, 1973

appraisal briefs

WEEKLY NEWSLETTER OF THE SOCIETY OF REAL ESTATE APPRAISERS

At Atlanta Conference

Former Governor on Residences

An Indianapolis SRPA, who is also former Governor of his district, shares teaching duties at the Residential Workshop scheduled for the Society's Conference in Atlanta this summer.

Mr. White . . . Workshop Speaker

Edward L. White, who served out his term as governor of District #24 last year, and Donald E. Roach, SRA, of St. Louis, (Mo.), will discuss case studies on single-family residences, condominiums, and townhouses at the conference, July 29-Aug. 1.

Mr. White, an MAI and a member of the American Right of Way Association, is an independent fee appraiser with offices at 704 Union Title Building. The author of several articles on real estate appraising, he has also taught appraisal courses.

Mr. White, a graduate of Purdue University, is a member of the Society's SRA-SRPA Admissions Committee and past president of Indianapolis (Ind.) Chapter # 5.

At this conference, for the first time, all workshops will be repeated four times. Others offered are Apartment Appraisals, discussion of a case study of appraising an apartment; The Appraiser's Edge, an explanation of the instant mortgage-equity technique; and Neighborhood Shopping Centers, a case study of the development and appraisal of a neighborhood shopping center.

APPRAISAL BRIEFS is a weekly publication of the Society of Real Estate Appraisers, 7 South Dearborn Street, Chicago, Illinois 60603. John L. Beauchamp, President; James V. Morgan, Executive Vice President. Subscription price $5 a year. EDITOR: TERRENCE E. WEIDE, 7 SOUTH DEARBORN STREET, CHICAGO, ILLINOIS 60603. TELEPHONE (312) 346-7422. Contributing Editor: Robert E. Morin, 2600 Virginia Avenue, N.W., Washington, D.C. 20037. Postmaster send form 3579 to Chicago.

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SEATTLE (206) 682-0456

April 21, 1975

File
HB 276

Honorable Bob Bradley
601 North Bragaw
Anchorage, Alaska 99504

Dear Representative Bradley:

I am writing in regards to bills which were introduced in the State House and Senate on March 27, 1975, providing for the licensing of real estate appraisers. Specifically, these are Senate Bill No. 331 and CS for House Bill No. 276.

In order that my comments might be placed in proper perspective let me first tell you something about myself. I am a real estate appraiser who, in January, moved to Anchorage for the purpose of opening a branch office for the firm of Shorett & Riely, real estate appraisers and consultants based in Seattle, Washington. Three members of our firm, including Mr. Shorett and Mr. Riely are members of the American Institute of Real Estate Appraisers. Two other members of the firm including myself are candidates for membership in the institute.

Prior to moving to Alaska, I acquired two years of experience in real estate appraisal with Shorett & Riely after having been involved professionally with other types of real estate activity. During the course of my two years in Seattle with Shorett & Riely, I have written full narrative appraisal reports on several types of major real properties in Washington State as well as in Alaska. Virtually all of my appraisal reports have been co-signed by either Mr. Shorett or Mr. Riely as members of the Appraisal Institute and we have continued this practice in the operation of our branch office here in Anchorage.

When it came to my attention that legislation had been introduced providing for the licensing of real estate appraisers, my immediate reaction was favorable. It is my understanding that throughout most of the lower 48 states, appraiser licensing laws do not exist, apparently due to adequate self-regulation by the American Institute of Real Estate Appraisers and the Society of Real Estate Appraisers. However, due to the geographical separation of the State of Alaska from the lower 48 and the tremendous amounts of real estate development currently being experienced, governmental regulation of the appraisal profession appears to be necessary to insure that the quality of the appraisal work done in the State of Alaska meets the highest standards. In principal, then, I agree with the overall purpose of the appraisal licensing which has been introduced as well

as the requirements for the proposed general and residential licenses which correspond to a large degree to the requirements of the Appraisal Institute.

In going over the bills which have been introduced in the legislature, I have found one material difference between them. The Senate Bill has provision for issuance of a non-resident license to an appraiser who otherwise meets the qualifications of the legislation, who maintains a regular place of business in the state of his domiscile and a registered agent in the State of Alaska upon whom process may be served. The House Bill has no such provision for issuance for non-resident licenses.

Should the appraiser licensing bill become law as set forth in the House Bill, it would no longer to be possible for me to continue to appraise in the state of Alaska for our firm under the present arrangement since I do not have adequate experience to allow me to take the general real estate appraiser examination at this time and there are no plans for members of our firm who do qualify to take the examination to move to Alaska.

It is obvious, then, I and other members of our firm have substantial professional interest in the final outcome of the proposed appraiser licensing legislation. The only way that we would be able to continue to conduct business in this state is if the law as finally passed contains a provision for licensing of non-residents of Alaska. There are, however, further considerations which I feel would make it in the best interests of the State to provide for licensing of non-resident appraisers.

Currently, there is a substantial amount of appraisal work done in the State of Alaska by non-resident appraisers for clients both within and outside of the state. Many of these appraisers are highly qualified and do excellent appraisal work and as is the case in any profession, some do not. There are, of course, also many highly qualified appraisers residing within the state and some who are not. It is my opinion that without provision for issuance of non-resident appraisal licenses, the temptation to a qualified appraiser from outside of the state of Alaska who has been hired by a non-Alaskan client who perhaps may not be aware of the licensing law would be great to come to Alaska and gather information about a property and return to his home state to write the appraisal report. I know, from personal experience, that it is possible to gather much of the information possible for an appraisal report without the knowledge of virtually all of the members of the local real estate community. I believe that enforcement of the requirement for an appraisal license to appraise within the state in this type of a situation would be quite difficult. The temptation for a qualified non-resident appraiser to appraise in the state of Alaska on this basis would be substantially removed by availability of a non-resident license.

In summary, then, it is obvious that it would be in the best interests of our firm if the proposed appraiser licensing legislation contained a provision for issuance

April 21, 1975

of non-resident licenses as included in the Senate Bill. I believe that such a provision would also be in the best interest of the Alaska appraisal industry as well as the state in general. Any efforts you are able to make in this regard would be greatly appreciated. If there is any further information that we could provide or anything else that we could do to promote this cause, please let me know.

Most sincerely,

William M. James
Appraiser-Manager

WMJ:pw

HB
289
298

HB 289 x 298

Tape #	Date
22	3/31
24	4/4
35	4/28
36	4/28

"An Act relating to the definition of security."

COMMITTEE REPORT

3/13/75 HOUSE JUDICIARY

Mr. Speaker: Date _____

The Committee on Commerce has had HB 298 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

(X) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

L. E. Bradley		

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

L. E. Bradley Chairman

A M E N D M E N T

Offered in the HOUSE By Commerce Committee

To: _____ HOUSE BILL NO. 200

_____ SENATE BILL NO. ____

AMENDMENT: Page_____ Line_____

Page 1

Line 22

After the word "from" delete the word "the".

Line 25

After the word "investors;" delete the words "a contract or" and insert the word "an".

Page 2

Line 3 & 4

After the words "money or" delete the words "valuable assets" and insert the words "money's worth".

Line 4

After the words "furnished and" insert the word "/or".

Line 5

After the words "expectation of some" delete the word "nonmonetary".

Line 7

To the word "decision" add the letter "s".

IN REPLYING PLEASE QUOTE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
REGIONAL OFFICE
[redacted]
SEATTLE, WASHINGTON [redacted]

RECEIVED
FEB 24 1975
DEPARTMENT OF COMMERCE
DIVISION OF BANKING
SECURITIES AND SMALL LOANS

SECURITIES AND EXCHANGE COMMISSION
ROOM 3040 FEDERAL BUILDING
915 SECOND AVENUE
SEATTLE, WASHINGTON 98174

February 19, 1975

File

James L. Thompson
Securities Examiner
Alaska Dept. of Commerce
Pouch D
Juneau, Alaska 99801

Re: Proposed revision of AS 45.55

Dear Mr. Thompson:

Thank you for forwarding this office a copy of the proposed revision of AS 45.55.140(b)(5) under the Alaska State Securities Act.

As we have discussed in the past, amendments and rules adopted by the federal Securities and Exchange Commission are not intended to be models for the state authorities. The existence of strong state regulation permits the Commission to spread our thin staff over more interstate and international violations and leave geographically isolated securities offerings to such local regulation.

Therefore, we are somewhat alarmed if state governments pattern exemptions from local regulation on exemptions which the federal authorities feel are appropriate in large part because we rely on state governments to police them. This creates loopholes, which in turn results in a demand by the public for stronger federal regulation.

With this in mind, we note that the proposal you sent us, which proposes to exempt sales to 35 residents of Alaska, would create the danger of a loophole which might result in an absence of regulation of very large offerings. The proposal does not provide for the safeguards, such as sophisticated ability to evaluate the business risks, or ability to bear the possibilities of total loss, which the Federal Rule 146 requires. The federal rule hinges upon this ability to fend for oneself, thus making registration of sales to 35

persons less necessary (suitably restricted so that nominees, companies, trusts and the like are counted as one investor for each beneficial owner of interests in such nominees, companies, trusts, etc.)

If Alaska exempts from registration offerings to a limited number of persons, the proposal by your office that the exemption be limited to 20 would appear to be the maximum number which the state should consider, and the definition of those persons should be made so as to avoid evasions through corporations and trusts which themselves have securities to offer. Also, as you propose, the dollar amount, notification requirement, sophistication test and prospectus test should be retained, in our opinion.

Sincerely,

Jack H. Bookey

Jack H. Bookey
Regional Administrator

MEMORANDUM

File

LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

POUCH Y – STATE CAPITOL
JUNEAU, ALASKA 99811

TO: Mr. Bradley

DATE: 2/28/75

FROM: Dave Walker

WO#510

SUBJECT: Amendment to the AK. Securities Act.

Following our conversation this afternoon I attempted to get in touch with Mr. Schlosberg. He is on vacation and unavailable until sometime the early part of March. (Back March 10). Mr. Thompson advises that his memo to the committee of 2/4/75 stands as the firm position of the staff of the Div. of Banking. He further advises that the Securities Exchange Commission is adamantly opposed to Schlosberg proposal. Recommend we sit on this until Schlosberg arrives and then determine ~~what~~ how to proceed.

BOB BRADLEY

state house

CHAIRMAN, COMMERCE COMMITTEE
POUCH V
JUNEAU, ALASKA 99811
465-3824

VICE CHAIRMAN, JUDICIARY
601 N. BRAGAW
ANCHORAGE, ALASKA 99504
272-0275

March 19, 1975

Mr. Jack Bookey
Regional Administrator
Securities Exchange Committee
Room 3040 Federal Building
915 2nd Avenue
Seattle, Washington 98174

Dear Mr. Bookey,

The House Commerce Committee is considering the enclosed bills, HB 289 and HB 298. The hearings on these bills is scheduled for Friday, March 28 at 8:00 a.m. Your testimony is invited, however, if you are unable to attend we would appreciate any written comments you might care to make. Please submit written testimony before March 28. If you have any questions please contact my office, the number is 465-3824.

Sincerely,

Bob Bradley

BB/mr

cc James Reeves
Stan Howitt
William Anderson
Willis Kirkpatrick
Fred Kokin

Witnesses

Stanley Howitt, Esq. 360 K St.
Director, Consumer Protection

Kenneth Hume, President 612 F St. 01
Anchorage Chamber of Commerce
(former Pres. of Alaska State Bank)

James L. Thompson
Securities Examiner, Division of Banking & Securities
AK Dept. of Commerce

Leslie Pace, President
Area Realty Inc.
Anchorage, AK

Ralph Whitmore, Chairman
Alaska State Bank, Anchorage

James E. Johnson, vice-president
First National Bank of Anchorage
Anchorage, AK

Bennett Williams
Sales Associate, Jack White Company
Anchorage, AK 909 W. 9th Ave, 01

James Reeves
Ass. AG 360 K St.
Anc

Miles Schlosberg
1026 4th Ave. Suite 206
AncAK

Jan 31

Proposed Bill on Alaska Securities Law

AS 45.55.140 (6) (5) change to "a transaction exempt as a private offering under U.S. Securities and Exchange Commis ion Rule 146, provided that the offeror shall by writing notify the Administrator of the offering prior to making the offering on such form as the Administrator shall by rule or order prescribe.

HB 289
298

Jack Bookey
Regional Administrator
Securities Exchange Committee
Room 3040 Federal Building
915 2nd Ave
Seattle Washington 98174

James Reeves
Asst. Attorney General
360 K St.
Anchorage Alaska

Stan Howitt
Consumer Protection - Anchorage

William Anderson
Asst. Comm.
Div. of Securities
230 State Office Building
Denver Colorado

Willis Kirkpatrick
Alaska Federal Saving + Loan Ass'n
301 Franklin St.

Fred Koken
Foster + Marshall
114 S Franklin St. Juneau

J

Dear ~~~

The House Commerce Comm. is considering the enclosed bills, HB 289 and HB 298. The hearings on these bills is scheduled for Friday March 28 at 8:00 AM. ~~Many~~ → however Your testimony is invited ~~but~~ if you are unable to attend we would appreciate any written comments you might care to make. Please submit written testimony before March 28. If you have any questions please contact my office, the number is 465 3824.

Sincerely

Bob

First Regular Session

LDO NO. 73 0203/1

Forty-ninth General Assembly

STATE OF COLORADO

HOUSE BILL NO. 1030

ENGROSSED

BUSINESS AFFAIRS

BY REPRESENTATIVES Sack and Kopel; also SENATOR Bermingham.

A BILL FOR AN ACT

DECLARING PYRAMID PROMOTIONAL SCHEMES TO BE DECEPTIVE TRADE "COLORADO PRACTICES UNDER THE/CONSUMER PROTECTION ACT".

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 55-5-1, Colorado Revised Statutes 1963 (1969 Supp.), is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

55-5-1. Definitions. (13) "Pyramid promotional scheme" means any program utilizing a pyramid or chain process by which a participant in the program gives a valuable consideration in excess of one hundred dollars for the opportunity or right to receive compensation or other things of value in return for inducing other persons to become participants in the program. Ordinary sales of goods or services to persons who are not purchasing in order to participate in such a scheme are not within this definition.

(14) "Promoting a pyramid promotional scheme" means inducing one or more other persons to become participants, or attempting to so induce, or assisting another in promoting a pyramid promotional scheme by means of references or otherwise.

SECTION 2. 55-5-2 (1), Colorado Revised Statutes 1963, as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

55-5-2. Deceptive trade practices. (1) (r) Contrives,

Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

As amended 2nd readi
FEB 9 1973
HOUSE

prepares, sets up, operates, publicizes by means of advertisements, or promotes any pyramid promotional scheme.

SECTION 3. 55-5-10 (2) (c), Colorado Revised Statutes 1963 (1969 Supp.), is amended to read:

55-5-10. Duties of district attorneys. (2) (c) To transmit such complaints to the attorney general, ~~EXCEPT~~ AND AS TO PYRAMID PROMOTIONAL SCHEMES, TO ACT UPON SUCH COMPLAINTS IN THE ENFORCEMENT OF THE PROVISIONS OF THIS ARTICLE.

SECTION 4. 55-5-11, Colorado Revised Statutes 1963 (1969 Supp.), is amended to read:

55-5-11. Enforcement. In order to promote the uniform administration of this article in this state, the attorney general shall be responsible for its enforcement, but he may direct any district attorney in this state to enforce the provisions of this article, EXCEPT THAT ANY DISTRICT ATTORNEY HAS CONCURRENT JURISDICTION TO ENFORCE THE PROVISIONS OF THIS ARTICLE WITH RESPECT TO PYRAMID PROMOTIONAL SCHEMES. IN EITHER ~~in which~~ case the district attorney shall have the powers of the attorney general prescribed in this article.

SECTION 5. Article 5 of chapter 55, Colorado Revised Statutes 1963, as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

55-5-14. Criminal penalties. Any person who promotes a pyramid promotional scheme in this state, upon a first conviction, is guilty of a class 1 misdemeanor, as defined in section 40-1-106, C.R.S. 1963, and upon a second or subsequent conviction, is guilty of a class 5 felony, as defined in section 40-1-105, C.R.S. 1963.

SECTION 6. Effective date. This act shall take effect July 1, 1973, and shall apply to offenses committed on and after such date.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

HOUSE BILL NO. 1278

ENGROSSED WITH AMENDMENT ADOPTED AT
MARCH 20 MEETING

FOR USE FOR COMMITTEE
DISCUSSION ONLY

A BILL FOR AN ACT

CONCERNING SECURITIES, AND PROVIDING FOR LICENSING PERSONS DEALING THEREIN AND REGULATING PRACTICES RELATING THERETO.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Adds to the list of persons regulated as salesmen under the securities law a new class called investment adviser, defined as one who, for compensation, engages in the business of advising others, by analyses, reports, or otherwise, concerning the value, future prospects, etc. of securities. Lists in detail occupations not included under that term. Defines in more detail what securities are. Allows the securities commissioner to censure or fine licensees violating certain provisions and to impose costs of proceedings on licensees. Under exemptions from registration, lists additional stock exchanges, defines commercial paper in detail, and redefines what are public offerings of securities. Authorizes the securities commissioner to enter orders to show cause or to cease and desist if necessary to prevent violations of the securities law. Details practices which are not permitted for investment advisers, and sets forth requirements for advisory contracts relating to compensation, restriction on assignments, and custody of securities. Repeals provisions of the securities law authorizing registration by notification as well as the exemption from registration of certain securities and persons dealing in securities.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 11-51-102 (9) and (12), Colorado Revised Statutes 1973, are amended to read:

Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

11-51-102. Definitions. (9) "Salesman" means any individual, other than a broker-dealer, or issuer-dealer, OR INVESTMENT ADVISER, who represents a broker-dealer or issuer-dealer in effecting or attempting to effect purchases or sales of securities OR WHO IS EMPLOYED BY AN INVESTMENT ADVISER TO RENDER ADVICE, ANALYSIS, OR EVALUATION OF SECURITIES OR INVESTMENTS OR TO PARTICIPATE IN THE OFFER OR SALES OF ITS SERVICES OR CONTRACTS TO OTHERS. ~~"Salesman" does not include an individual who represents an issuer in effecting transactions in a security exempted by section 11-51-114 (1) (a) to (1) (c), (1) (i), or (1) (j) in effecting transactions exempted by section 11-51-114 (2) or in effecting transactions with existing employees, partners, or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state.~~ A partner, officer, or director of a broker-dealer or investment advisor or issuer-dealer, or a person occupying a similar status or performing similar functions, is a salesman only if he otherwise comes within the definition.

(12) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificate; preorganization certificate of subscription; transferable share; investment contract; ANY INVESTMENT OF MONEY OR CONSIDERATION IN THE RISK CAPITAL OR INITIAL FINANCING OF A VENTURE WITH THE EXPECTATION OF SOME BENEFIT TO THE INVESTOR WHERE THE INVESTOR HAS NO DIRECT CONTROL OVER THE INVESTMENT, MANAGEMENT, OR POLICY DECISION OF THE

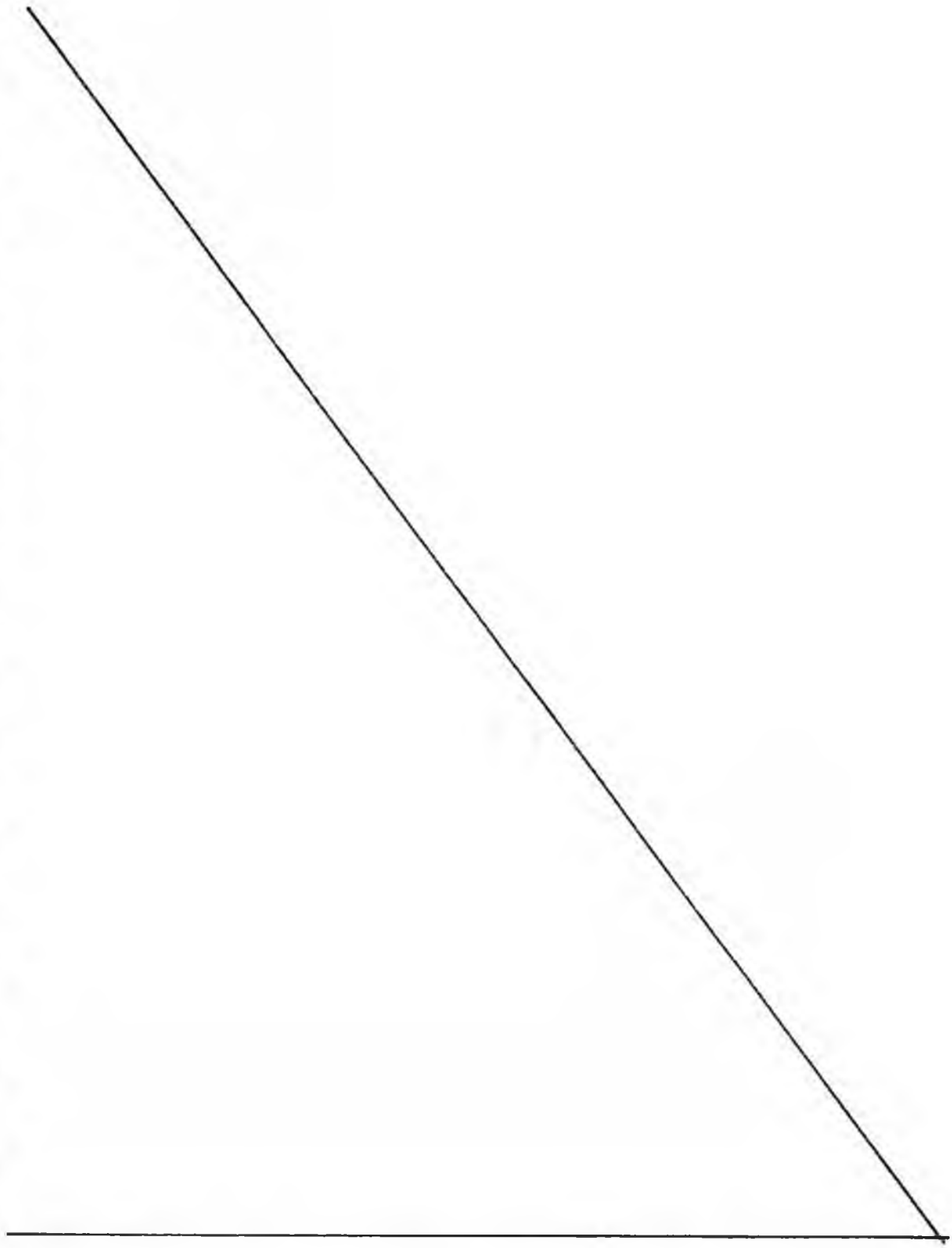
VENTURE; ANY CONTRACT, OPTION OR A CONTRACT, DISCRETIONARY AGREEMENT, OR DEPOSIT RECEIPT FOR FUTURE DELIVERY OF A COMMODITY NOT REGULATED BY THE COMMODITIES FUTURES TRADING COMMISSION, OR SIMILAR AGENCY OF THE UNITED STATES GOVERNMENT AND TRADED ON THE FLOOR OF A BONA FIDE EXCHANGE OR BOARD OF TRADE REGISTERED THEREUNDER; voting-trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease; or, in general, any interest or instrument commonly known as a "security" or any certificate of interest or participation in, temporary or interim certificate for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay ~~a sum of~~ money either in a lump sum or periodically for life or some other specified period and does not include certificates of membership or stock offered or issued to its members by a cooperative association, as defined by 7-55-101 (1), Colorado Revised Statutes 1973.

SECTION 2. 11-51-102, Colorado Revised Statutes 1973, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

11-51-102. Definitions. (3.5) (a) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for

compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities.

(b) "Investment adviser" does not include a:



(I) Bank, savings institution, pension fund, or trust company;

(II) Lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession;

(III) Broker-dealer or a person whose only clients in this state are other investment advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the "Investment Company Act of 1940", pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees;

(IV) Publisher of any bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation;

(V) Person whose advice, analyses, or reports relate only to securities exempted by section 11-51-114 (1)(a), or such other persons not within the intent of this subsection (3.5) as the securities commissioner may by rule or order designate.

SECTION 3. 11-51-104, Colorado Revised Statutes 1973, is amended to read:

11-51-104. Licensing of broker-dealers, issuer-dealers, investment advisers, and salesmen. (1) It is unlawful for any person to transact business in this state as a broker-dealer, issuer-dealer, INVESTMENT ADVISER, or salesman unless he is licensed under this article.

(2) It is unlawful for any broker-dealer, or issuer-dealer,

OR INVESTMENT ADVISER to employ a salesman unless the salesman is licensed. The license of a salesman is not effective during any period when he is not associated with a particular broker-dealer, , or investment adviser
~~or~~ issuer-dealer/licensed under this article. When a salesman begins or terminates a connection with a broker-dealer, ~~or~~ or investment adviser
issuer-dealer, or begins or terminates those activities which make him a salesman, the salesman as well as the broker-dealer, ~~or~~ , or investment adviser
issuer-dealer / shall promptly notify the securities commissioner.

(3) Every broker-dealer, and issuer-dealer, AND INVESTMENT ADVISER license expires one year from its effective date unless renewed. Every salesman license expires, unless renewed, upon the expiration date of the license of the broker-dealer, ~~or~~ issuer-dealer, OR INVESTMENT ADVISER he represents.

SECTION 4. 11-51-105, Colorado Revised Statutes 1973, is amended to read:

11-51-105. Licensing procedure. (1) A broker dealer, issuer-dealer, INVESTMENT ADVISER, or salesman may obtain an initial or renewal license by filing with the securities commissioner an application together with a consent to service of process pursuant to section 11-51-127 (3). The application shall contain whatever information the securities commissioner by rule requires fingerprints and photographs: the
concerning such matters as: The applicant's / form and place of organization; the applicant's proposed method of doing business; the qualifications and business history of the applicant; in the case of a broker-dealer, ~~or~~ issuer-dealer, OR INVESTMENT ADVISER, the qualifications and business history of any partner, officer,

or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer, ~~or~~ issuer-dealer, OR INVESTMENT ADVISER; any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony; and the applicant's financial condition and history. If no denial order is in effect and no proceeding is pending under section 11-51-112, the license becomes effective at noon of the thirtieth day after an application is filed. The securities commissioner may by rule or order specify an earlier effective date, and he may by order defer any effective date until noon of the thirtieth day after the filing of the amendment.

(2) Every applicant for original license shall pay a filing fee of one hundred dollars in the case of a broker-dealer, issuer-dealer, OR INVESTMENT ADVISER and twenty dollars in the case of a salesman. ~~In the case of issuer-dealers, the licensing fee of one hundred dollars shall be applied to the registration fee required under section 11-51-107 (2).~~ An applicant for renewal license shall pay a filing fee of fifty dollars for a broker-dealer OR INVESTMENT ADVISER and ten dollars for a salesman. ~~The renewal fee for an issuer-dealer shall be included in the renewal registration fee applicable thereto.~~ When a license or application is withdrawn, denied, suspended, or revoked, the fee shall not be refunded.

(3) A registered broker-dealer, ~~or~~ issuer-dealer, OR INVESTMENT ADVISER may file an application for license of a

successor, whether or not the successor is then in existence, for the unexpired portion of the year. There shall be no filing fee.

(4) The securities commissioner ~~shall~~ may by rule or order require a minimum NET capital of UP TO ~~ten~~ TWENTY-FIVE thousand dollars for licensed broker-dealers

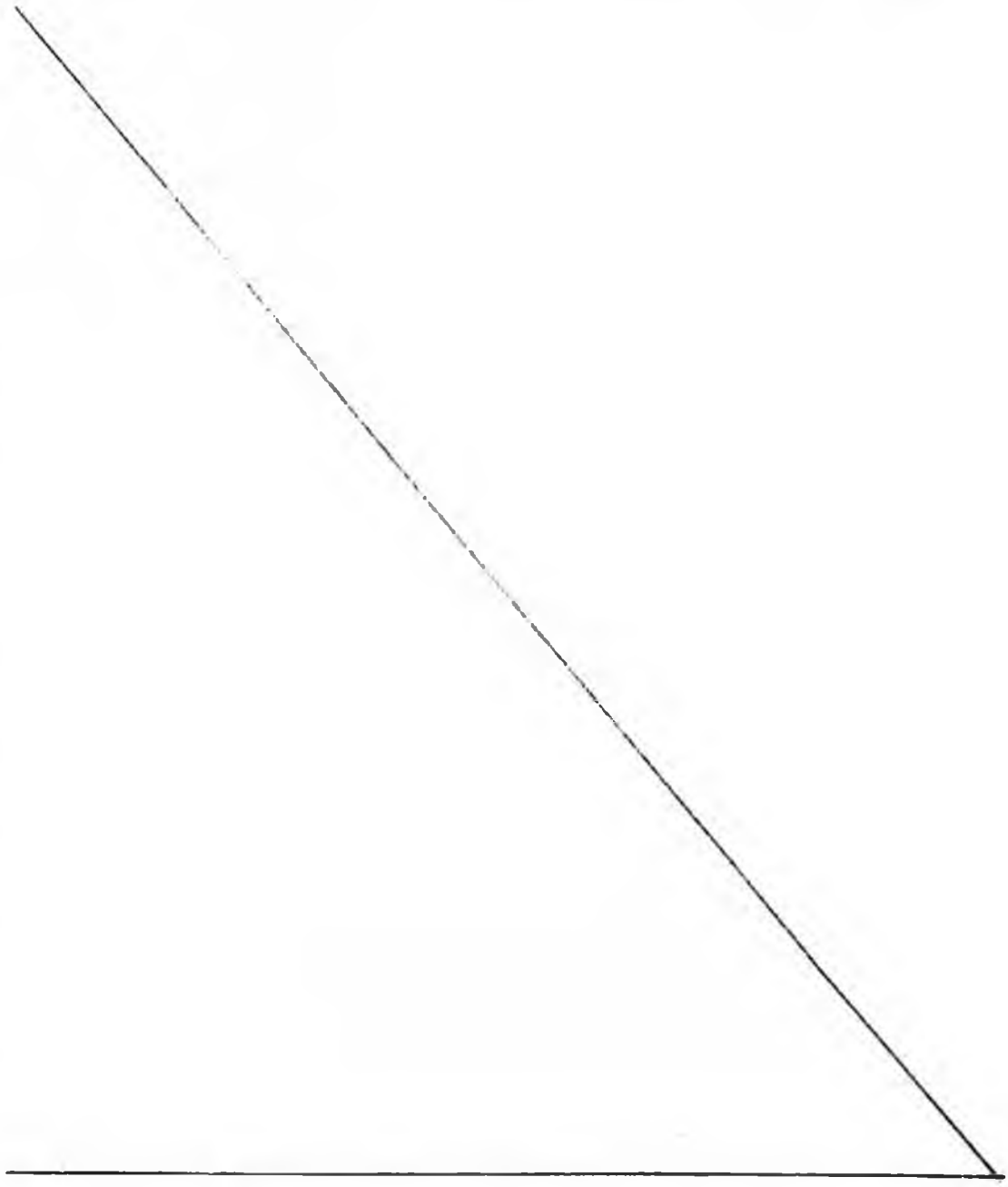
(5) The securities commissioner may by rule or order require registered broker-dealers to post surety bonds in amounts up to ~~ten~~ TWENTY-FIVE thousand dollars and may determine their conditions. THE MINIMUM CAPITAL REQUIREMENTS OF SUBSECTION (4) OF THIS SECTION OR THE BOND REQUIREMENTS OF THIS SUBSECTION (5) SHALL ONLY APPLY TO BROKER-DEALERS WHO HOLD CUSTOMER'S SECURITIES OR CASH BALANCES. Any appropriate deposit of cash or securities shall be accepted in lieu of any bond so required. Every bond shall provide for suit thereon by any person who has a cause of action under section 11-51-125. Every bond shall provide that no suit may be maintained to enforce any liability on the bond unless brought within two years after the sale or other act upon which it is based.

(6) THE SECURITIES COMMISSIONER MAY BY RULE OR ORDER REQUIRE INVESTMENT ADVISERS TO POST SURETY BONDS IN AMOUNTS UP TO TEN THOUSAND DOLLARS.

SECTION 5. 11-51-107 (9), Colorado Revised Statutes 1973, is amended to read:

11-51-107. General registration provisions. (9) ~~When securities are registered by notification or by coordination or by qualification, they may be offered and sold by the issuer and~~

other-person-on-whose--behalf--they--are--registered--or--by--any registered---broker-dealer. Every registration shall remain effective until revoked by the securities commissioner or until terminated upon request of the registrant with the consent of the securities commissioner. All outstanding securities of the same class as a registered security are considered to be registered for the purpose of any nonissuer transaction BY OR ON BEHALF OF A



PERSON NOT THE ISSUER OR NOT IN CONTROL OF, CONTROLLED BY, OR UNDER COMMON CONTROL WITH THE ISSUER, so long as the registration statement is effective. ~~and-between-the-thirtieth-day-after--the entry--of-any-stop-order-suspending-or-revoking-the-effectiveness of-the-registration-statement-under--section--11-51-113;--if--the registration--statement--did--not-relate-in-whole-or-in-part-to-a nonissuer-distribution-and-one-year-from-the--effective--date--of the--registration-statement.~~ A registration statement may not be withdrawn ~~for-one-year-from~~ AFTER its effective date if any securities ~~of--the--same--class-are-outstanding.--A-registration statement-may-be-withdrawn-otherwise-only-on--the--order--of--the securities-commissioner.~~ REGISTERED HAVE BEEN SOLD IN THIS STATE, UNLESS PERMITTED BY RULE OR ORDER OF THE SECURITIES COMMISSIONER. NO REGISTRATION STATEMENT IS EFFECTIVE DURING THE TIME A STOP ORDER IS IN EFFECT UNDER SECTION 11-51-113 (1).

SECTION 6. 11-51-111 (1) and (2), Colorado Revised Statutes 1973, are amended to read:

11-51-111. Postregistration provisions. (1) Every licensed broker-dealer, ~~and~~ issuer-dealer, AND INVESTMENT ADVISER shall make and keep such accounts, correspondence, memoranda, papers, books, and other records as the securities commissioner by rule prescribes. All records so required shall be preserved for three years, unless the securities commissioner by rule prescribes otherwise for particular types of records.

(2) Every licensed broker-dealer, ~~and~~ issuer-dealer, AND INVESTMENT ADVISER shall file such financial reports as the securities commissioner by rule prescribes.

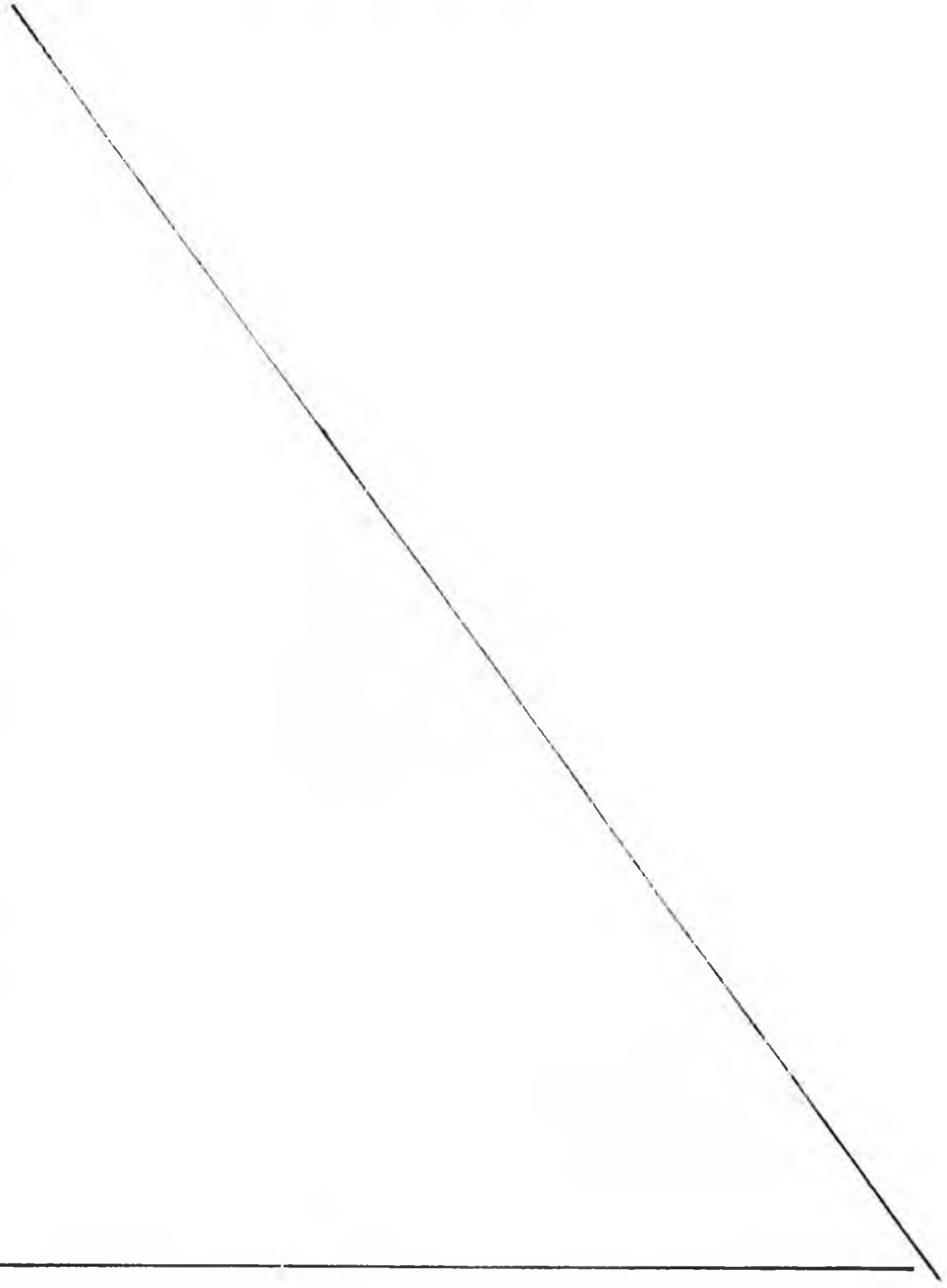
SECTION 7. The introductory portion of 11-51-112 (1), and 11-51-112 (1) (e), (1) (f), (1) (h), (1) (j), and (1) (k), (2) (a) and (2) (c), (3), and (4), Colorado Revised Statutes 1973, are amended to read:

11-51-112. Denial, revocation, suspension, cancellation, and withdrawal of registration. (1) The securities commissioner may by order deny, suspend, or revoke any license, OF ANY LICENSEE OR APPLICANT FOUND TO HAVE BEEN IN VIOLATION OF ANY OF THE PROVISIONS OF THIS SUBSECTION (1), OR MAY CENSURE OR IMPOSE A FINE NOT TO EXCEED FIVE HUNDRED DOLLARS UPON ANY LICENSEE FOUND TO HAVE VIOLATED PARAGRAPHS (a), (b), (g) OR (j) OF THIS SUBSECTION (1) if he finds that the order is in the public interest and that the applicant or licensee or, in the case if a broker-dealer, ISSUER-DEALER, OR INVESTMENT ADVISER, any partner, officer, or director, or any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer, or issuer-dealer, OR INVESTMENT ADVISER:

(e) Is the subject of an order of the securities commissioner denying, suspending, or revoking his license as a broker-dealer, issuer-dealer, INVESTMENT ADVISER, or salesman;

(f) Is the subject of an order entered within the past five years by the securities administrator of any other state or by the securities and exchange commission denying or revoking licensing as a broker-dealer, ISSUER-DEALER, INVESTMENT ADVISER, or a salesman, or the substantial equivalent of those terms as defined in this article, or is the subject of an order of the

securities and exchange commission suspending or expelling him from a national securities exchange or national securities



association registered under the "Securities Exchange Act of 1934", or is the subject of a United States post office fraud order; but the securities commissioner may not institute a revocation or suspension proceeding under this paragraph (f) more than one year from the date of the order relied on, and he may not enter an order under this paragraph (f) on the basis of any order unless that order was based on facts which would currently constitute a ground for an order under this section;

(h) Is insolvent, either in the sense that his liabilities exceed his assets or in the sense that he cannot meet his obligations as they mature; but the securities commissioner may not enter an order against a broker-dealer, issuer-dealer, INVESTMENT ADVISER, or salesman under this paragraph (h) without a finding of insolvency as to the broker-dealer, ISSUER-DEALER, OR INVESTMENT ADVISER;

(j) Has failed reasonably to supervise his salesmen if he is a broker-dealer, or issuer-dealer, OR INVESTMENT ADVISER; OR

(k) Has failed to pay the proper filing fee, ANY FINE IMPOSED PURSUANT TO THIS SECTION, OR COSTS ASSESSED UNDER SUBSECTION (3) OF THIS SECTION; but the securities commissioner ~~may enter only a denial order under this paragraph (k), and he~~ shall vacate any such order when the deficiency has been corrected.

(2) (a) The securities commissioner may not enter an order against a broker-dealer, or issuer-dealer, OR INVESTMENT ADVISER on the basis of the lack of qualification of any person other than the broker-dealer, or issuer-dealer, OR INVESTMENT ADVISER

himself, if he is an individual or a salesman of the broker-dealer, or issuer-dealer, OR INVESTMENT ADVISER;

(c) The securities commissioner shall consider that a salesman who will work under the supervision of a licensed broker-dealer, or issuer-dealer, OR INVESTMENT ADVISER need not have the same qualifications as a broker-dealer, ISSUER-DEALER, OR INVESTMENT ADVISER;

(3) The securities commissioner may by order postpone or suspend a license pending final determination of any proceeding under this section. Upon the entry of the order, the securities commissioner shall promptly notify the applicant or licensee, as well as the employer or prospective employer if the applicant or licensee is a salesman, that it has been entered and of the reasons therefor and that within fifteen days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the securities commissioner, the order will remain in effect until it is modified or vacated by the securities commissioner. If a hearing is requested or ordered, the securities commissioner, after notice of an opportunity for hearing, may modify or vacate the order or extend it until final determination. IN ANY DISPOSITION UNDER THIS SUBSECTION (3) THE LICENSEE OR APPLICANT SHALL BEAR SUCH PART OF THE COSTS OF THE PROCEEDINGS AS THE SECURITIES COMMISSIONER DEEMS REASONABLE AND APPROPRIATE IN THE CIRCUMSTANCES.

(4) Withdrawal as a licensed broker-dealer, or ISSUER-DEALER, INVESTMENT ADVISER, OR salesman becomes effective

thirty days after receipt of an application to withdraw or within such shorter period of time as the securities commissioner may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within thirty days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such times and upon such conditions as the securities commissioner by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the securities commissioner may nevertheless institute a revocation or suspension proceeding under subsection (1) (b) of this section within one year after withdrawal became effective and enter a revocation or suspension order as of the last date on which the license was effective.

SECTION 8. 11-51-114 (1) (g), (1) (h), and (2) (i), Colorado Revised Statutes 1973, are amended, and the said 11-51-114 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

11-51-114. Exempted securities and transactions; denial and revocation of exemptions. (1) (g) Any security listed or approved for listing upon notice of issuance on the New York stock exchange, the American stock exchange, ~~or the~~ Pacific ~~coast~~ stock exchange, ~~or the~~ Midwest stock exchange, PBW STOCK EXCHANGE, OR BOSTON STOCK EXCHANGE; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed

or approved; or any warrant or right to purchase or subscribe to any of the foregoing;

(h) Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, OR charitable ~~fraternal;--social; athletic;-or-reformatory~~ purposes, or as a chamber of commerce or trade or professional association, WHICH (1) IS OFFERED OR SOLD TO A BONAFIDE CONSTITUENT OR MEMBER OF SUCH ORGANIZATION OR ASSOCIATION WHERE NO DIRECT OR INDIRECT COMMISSION OR REMUNERATION IS PAID IN CONNECTION WITH THE OFFER OR SALE OF SUCH SECURITY, OR (2), IS OFFERED THROUGH A REGISTERED BROKER-DEALER, (3) OR ANY SECURITY ISSUED BY ANY COOPERATIVE ASSOCIATION ENGAGED IN THE SALE OR PRODUCTION OF ELECTRICITY AND REGULATED BY THE PUBLIC UTILITIES COMMISSION OF COLORADO.

(2) (i) Any transaction in this (1) state not involving any

public offering WHERE THERE IS NO GENERAL OR PUBLIC ADVERTISING OR SOLICITATION, OR (2) EFFECTED IN ACCORDANCE WITH ANY RULE OR ORDER BY THE SECURITIES COMMISSIONER ESTABLISHING AN EXEMPTION PURSUANT TO THIS PARAGRAPH WHERE THE SECURITIES COMMISSIONER FINDS THAT THE APPLICABILITY OF SECTIONS 11-51-106 AND 11-51-115 ARE NOT NECESSARY OR APPROPRIATE IN THE PUBLIC INTEREST OR FOR THE PROTECTION OF INVESTORS. As used in this paragraph (1), the phrase "not involving any public offering" means any offering where the seller reasonably believes that the securities purchased are taken for investment and not with a view toward sale or resale and where each offeree, by reason of his knowledge about the affairs of the issuer or otherwise, does not require the information which would be set forth in a registration statement under this article in order to make a reasonably informed judgment with respect to such investments AND WHERE NO COMMISSION OR OTHER REMUNERATION IS PAID OR GIVEN DIRECTLY OR INDIRECTLY (OTHER THAN TO A REGISTERED BROKER-DEALER) FOR SOLICITING ANY PROSPECTIVE OFFEREE OR PURCHASER IN THIS STATE.

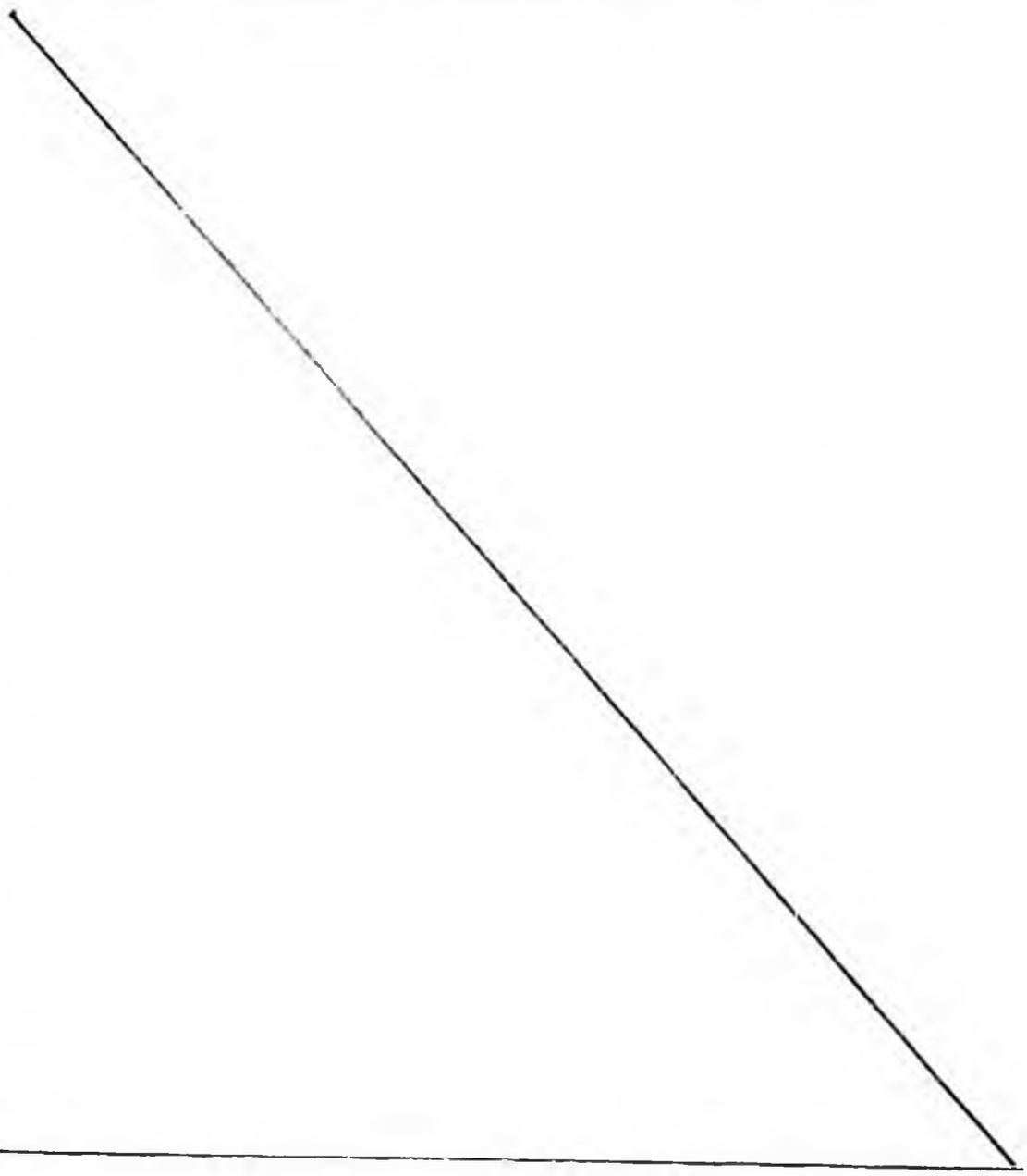
(5) Any issuer or person proposing or making an offering or effecting transactions in a security pursuant to an exemption under paragraph (h) or (i) of subsection (1) or under subsection (2) of this section may

file, according to the form and content prescribed, a written notice or claim for an exemption and request a confirmation, interpretive opinion, or ruling thereon.

Such person shall pay a filing fee of FIFTY dollars, which is not refundable. In any request, ruling, or order entered under this subsection (5) as to any security or transaction or any type of security or transaction, the securities commissioner may waive any condition for the exemption.

SECTION 9. 11-51-120, Colorado Revised Statutes 1973, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

11-51-120. Investigations and Subpoenas. (5) Upon a



finding or determination by the securities commissioner that the act, or a rule promulgated thereunder, has been, is being, or is about to be violated, he may enter an order to show cause for non-compliance which may include an order to cease and desist the acts, practices, or conduct complained of until compliance with all relevant provisions. Upon the entry of the order, the securities commissioner shall promptly notify the respondent that it has been entered and of the reasons therefor and that within ~~ten~~ days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the securities commissioner, the order will remain in effect until it is modified or vacated by the securities commissioner. If a hearing is requested or ordered, the securities commissioner, after notice of an opportunity for hearing, may modify or vacate the order or extend it until final determination.

SECTION 10. 11-51-123, Colorado Revised Statutes 1973, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

11-51-123. Fraudulent and other prohibited practices. (2) It is unlawful for any person who receives any consideration from another person primarily for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analyses or reports or otherwise:

(a) To employ any device, scheme, or artifice to defraud the the other person; or

(b) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon the

other person.

(3) It is unlawful for any investment adviser to enter into, extend, or renew any investment advisory contract unless it provides in writing:

(a) That the investment adviser shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client;

(b) That no assignment of the contract may be made by the investment adviser without the consent of the other party to the contract; and

(c) That the investment adviser, if a partnership, shall notify the other party to the contract of any change in the membership of the partnership within a reasonable time after the change.

(4) The provisions of subsection (3) of this section do not prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period or as of definite dates or taken as of a definite date. As used in subsection (3) of this section, the term "assignment" includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but, if the investment adviser is a partnership, no assignment of an investment advisory contract is considered to result from the death or withdrawal of a minority of the members of the

investment adviser having only a minority interest in the business of the investment adviser or from the admission to the investment adviser of one or more members who, after admission, will be only a minority of the members and will have only a minority interest in the business.

(5) It is unlawful for any investment adviser to take or have custody of any securities or funds of any client if:

(a) The securities commissioner by rule prohibits custody; or

(b) In the absence of rule, the investment adviser fails to notify the securities commissioner that he has or may have custody.

SECTION 11. Repeals. 11-51-102 (8) (f) (III), 11-51-108, 11-51-113 (1) (g) 11-51-114 (2) (k), and 11-51-128, Colorado Revised Statutes 1973, are repealed.

SECTION 12. Effective date. This act shall take effect July 1, 1975.

SECTION 13. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

COMMENTARY: BILL NO.
SECTION 8

AMENDMENTS TO CRS 1963 - EXEMPTIONS

CRS '73
11-51-114 1) 125-1-13(I)(h) (Amend) Listed Securities

The present section affords NYSE, AMEX, Midwest and Pacific stock exchanges exempt status for listed securities; this bill will include PBW and Boston exchanges in the same status. The listing policies and requirements for these exchanges appear to be sufficient to afford investor protection without the necessity of registration for new issues of securieies, so qualified, and there is adequate regulation by the S.E.C.

2) 125-1-13(I)(i) (Repeal) Non-profit charitable organizations, etc.

The broad, categorical exemption afforded non-profit, charitable organizations, and the like, has out-lived its usefulness and purpose. The original concept of permitting the proverbial "country church" to raise money from the congregation (or membership) to build a chapel, buy an organ or install a few pews, without the restrictive, cumbersome requirement of registration has evolved into a large, conglomerate type of promotional activity, publicy financed, operated by professionals, and digressing into diverse businesses such as nursing homes, schools or colleges, luxury resort hotels, girdle factories, travel and advertising agencies, and other assorted industries-all under the guise of "non-profit", charitable or benevolent motivation.

Many millions of dollars have been extracted from the unsuspecting public which is urged to "invest in the work of the Lord, and make 10% besides!" In a recent example some $12 million was solicited and received, much of which has not been accounted for, and this is just one of several experiences on a national level, and probably indicates only a representative portion of the amount produced in this state.

Such securities are being marketed under variations of call payment and time payment certificates, gift annuity agreements, life loans, interest and non-interest notes, cognovit notes, building improvement bonds, first mortgage bonds, unit investment trusts, etc. These terms are confusing, misleading or deceptive, providing the buyer with a false sense of security. Typically, the "victims" are elderly or infirm people who are not in a position to seek financial or investment counsel, commit their life savings, and in the event of failure or collapse, there is almost no recourse-("Who wants to take over a church?") Even successful churches are often mortgaged, and no equity is found to exist. In addition much of the proceeds can be siphoned off into other enterprises as indicated above. (In the situation mentioned above it has developed that a "subsidiary" of the "exempt" entity was advised by counsel that it could not legally make an offering; so it merely raised the money through the religious organization which "re-invested" in the affiliate.)

Since these activities have not come under the regulatory purview it is difficult to document statistics or assess specific areas of abuse or

extent of the public interest involved, but the logical approach would seem to require registration (i.e. disclosure) by repealing the exemption which has heretofore been available. This would provide the mechanics for disseminating basic information in connection with the offering and sale, of such securities, and qualify the persons engaged in the distribution. Minimum data should be presented concerning the issuing organization's financial condition and budgeting, its properties and encumbrances; sinking fund provisions sources of other revenue and proposed plan of repayment; risk factors and security, if any, underlying the obligation; method of underwriting, selling commissions and expenses; and, most importantly, how the funds are to be expended. Such reasonable disclosure should be made as a matter of fairness, and to comply with anti-fraud provisions, without regard to legal responsibility, but enforcement is not practical and apprehension is after the fact, unless a filing for registration is prerequisite. The right of an offeree or purchaser to fundamental disclosure concerning an investment considerably outweighs any moderate inconvenience and expense incurred by the entity soliciting it, particularly where large sums of public financing are involved.

Many other states have adopted or are considering similar legislation which has been endorsed by the uniform securities act revision committee of the North American Securities Administrators' Association.

CRS '73
11-51-114

3) 125-1-13(I)(j) (Amend) Commercial Paper

Defines and clarifies existing standards for "commercial paper" according to administrative and judicial interpretation.

4) 125-1-13(2)(j) (Amend) Non-public offering

Conditions the present exemption for non-public offerings (i.e. private placement transactions) to restrict compensation or commission, except to licensed broker-dealers. The exemption is predicated on the knowledge and relationship of the offeree to the issuer-which would almost inherently preclude active solicitation outside the entity itself, other than to affiliates, insiders or institutional investors. ("Persons who can fend for themselves and do not require the protections and disclosures afforded by a registration statement.")

The largest area of concern is with respect to real estate syndications or limited partnerships, where the investors don't specifically fall within the above catagory or criteria. Numerous real estate brokers currently are engaged in syndicating or sponsoring, as general partners or managers, participating interests in such enterprises, without compliance with either licensing, or registration requirements, or both, as well as anti-fraud provisions. The claim for exemption is based on the premise that the offerings are limited to small numbers of "sophisticated" investors, which has no statutory basis in fact. There is always a substantial front-end remuneration, commensurate with a generally accepted real estate commission on the purchase price of the property-which becomes exorbitant in terms of leveraging or amounts of financing arranged. (Ex. A $100,000 piece of property, requiring a down payment of 10%, and a standard commission rate of 10%, accruing to the syndicating broker, is packaged and sold to investors who provide the initial $10,000, all of which goes to the "sponsor" as profit, representing a 100% payment of the invested funds and resulting in no equity interest

held by the purchasers. This situation can be compounded by pre-paid interest, wrap-around martgages and other "Mickey-Mouse" methods of financing.)

Ostensibly the reason for alleging the exemption is to avoid compliance with the real estate program guidelines adopted by the Division with respect to registration of such offerings, which restricts acquisition fees, conflicts of interests and provides for minimum capital and requirements of sponsors, disclosures, rights of participants and limits, use of advertising, projections and promotion etc. Many brokers organize series of "non-public" offerings, which, culmulatively or integrated, constitute large syndications, in terms of dollars invested and number of interests.

This particular exemption will always present a regulatory problem, but the amendment at least will put a handle on it-that is, the persons "engaged in this business" of real estate securities will have to meet the licensing requirement, or forego compensation in connection with its services as syndicator.

CRS '73
11-51-114 5) 125-1-13(2)(I) (Repeal) Offering to existing securities holders

There seems to be no economic or moral justification for exempting registration for an offering to "existing shareholders"-they are entitled to as much disclosure and consideration as other public investors. Registration provides the means of disseminating material information to such persons in order that an informed investment decision can be made. Situations have developed in which an illegal distribution (a violation of registration and/or anti-fraud provisions) is made, initially, and then the same people are re-solicited (or extended a recision offer) on the basis that the offerees are now "existing security holders"-and no registration required, so that these investors are never afforded the protection of the act. Enforcement of disclosure requirements is difficult where this type of exemption exists; registration being a relatively simple and painless process, it should not be eliminated in favor of the issuer, when the basic right of disclosure to the persons having an equity or debt interest in the enterprise is concerned.

In most of these areas described above (except (I)) the S.E.C. does not exercise oversight jurisdiction, and similar exemptions exist as well as the intra-state exemption, and they are matters of local concern, properly addressed by state regulatory authority.

FISCAL NOTE:

No criteria is available to determine the amount of additional revenue to be derived in filing fees as a result of these amendments, but it is reasonably anticipated to exceed the sum of $10,000, reverting to the general fund; Budgetary expenditure would not be increased, since processing "new business" created hereby would be handled through existing registration procedures conducted by the Division.

STATE OF COLORADO - DIVISION OF SECURITIES - DEPARTMENT OF REGULATORY AGENCIES
230 State Office Building Denver 80203

NON-PUBLIC OFFERING EXEMPTION
i.e. PRIVATE PLACEMENTS

ADMINISTRATIVE OPINION
RELEASE: December 13, 1974

The Division has received numerous requests for interpretive opinions relating to proposed "Transactions not involving any public offering" pursuant to Section 125-1-13(2)(j) of the securities act, particularly as it pertains to real estate syndications (limited partnerships). The problem has been compounded by the adoption of Rule 146 by the Securities and Exchange Commission.

Many issuers, sponsors, and attorneys have assumed that if the conditions of that rule are met, there is automatic compliance with state requirements for an exemption from registration. It is to be noted that the SEC has specifically expressed that such rule is not intended to supersede state regulation of local offerings and, on the contrary, these are matters of local concern which properly should be relegated and administered under respective state jurisdiction. The fact that an offering meets the requirements for an exemption under R.146 is not significant in determining whether it is exempt from the provisions of the Colorado act.

The criteria used to substantiate the availability of an exemption under sub-section (2)(j) are as follows:

(1) Number of offerees-and Number of actual purchasers or subscribers.
(2) Offerees' relationship to issuer and to each other-pre-existing personal or business affiliation and financial experience such that they could reasonably be expected to fend for themselves, and not need the protection afforded by the registration requirements.
(3) Offerees' knowledge-special information or access to material data concerning issuer, its financial condition, business operations, intended use of proceeds, management, etc.
(4) Manner of offering-Size, amount and number of units. Type, nature and scope of distribution, and whether Commission, direct or indirect remuneration to be paid in connection with the offer or sale of the security involved in the transaction.
(5) No general advertising for general circulation or public solicitation is to be used.
(6) Commitment by offeree that the security is being taken for investment only and not for the purpose of resale or distribution.

The "private placement" or limited offering evolved from the "Mom and Pop grocery" concept (permitting distribution to "friends and relatives", organizers, promoters or incorporators of close corporations)-extended by case law to embody "insiders", presumably controlling persons and management. Applying this rationality to limited partnerships and tax shelters, the very nature of their legal structure manifestly precludes this type of investor from meeting those qualifications.

Proponents attempt to establish an exemption on the basis that the investors are "sophisticated" or that the investment is "suitable" for such persons. These are standards to be considered with respect to registered distributions-not limited to exempt offerings-and do not in and of themselves substantiate a claim for exemption.

They are not alluded to in the Statute, rule, or philosophy of the provisions referred to hereinabove.

An essential factor is the offerees' pre-existing personal or business relationship with the offeror, and a reasonable presumption of the capacity to protect their own interests.

There is also a question of integration, where a series of alledgedly"private placements" is conducted over a period of time, packaged by the same, or an affiliated sponsor, and the cumulative distribution exceeds even the allowable numbers test or dollar limitation of such a standard, when taken in the aggregate. There is further need to resolve the applicability of the licensing requirements for a general partner marketing these interests-in most cases, a real estate broker or developer. The pertinent statutory language is that a securities "broker-dealer means any person engaged in the business of effecting transactions in securities....." Counsel have argued that if such activity is merely "incidental" to the operation of a real estate agency, and not in the regular course of its business, it does not come within the purview of the definition. The Division is unable to find a distinction or implication in support of that proposition, particularly when a substantial front-end syndication or management fee is involved.

Consideration is being given to a proposed statutory amendment to provide a more definitive and objective standard for qualifying an exemption for a non-public offering substantially in the following language:

> 125-1-13(2)(j) Any transaction not involving any public offering" means any offering extended to no more than ten (10) persons, which will result in actual purchases by not more than five (5) persons, and involving not in excess of fifty thousand ($50,000) total offering amount; and where the seller reasonably believes that the securities purchased are taken for investment and not for the purpose of redistribution; and where each offeree, by reason of his knowledge about the affairs of the issuer or otherwise, or a pre-existing personal financial or business relationship with the offerors or where such offoree reasonably can be presumed to have the capacity to protect his own interests and does not require the information which would be set forth in a prospectus or offering circular in order to make a reasonably informed judgement with respect to such investment; no general advertising for general circulation or public solicitation is to be used, and no commission or other remuneration is paid or given directly or indirectly (other than to a registered broker-dealer)for soliciting any offeree or prospective purchaser; provided that notification of claim for exemption as to any security or transaction may be filed with the commissioner, in the form and content prescribed, who may waive or modify, by rule or order, any of the foregoing conditions or qualifications, and extend the number of offerees, purchasers, or offering amount permitted hereunder.The filing fee for such notification or request for exemption shall be twenty five ($25) dollars.

This Order is entered pursuant to the authority of 125-1-18(1) and 125-1-24(5) CRS 1963 and deemed necessary and appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the Act. Interested persons may submit written data, views, or argument regarding such interpretation and opinion.

DIVISION OF SECURITIES

By _____
STANLEY R. HAYS
Securities Commissioner

DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF SECURITIES
230 STATE OFFICE BUILDING • 201 E. COLFAX AVE.
DENVER, COLORADO 80203 • TELEPHONE 892-2607

STATE OF COLORADO
RICHARD D. LAMM
GOVERNOR

STANLEY R. HAYS
SECURITIES COMMISSIONER

WILLIAM J. ANDERSON
ASS'T SECURITIES COMM'R

March 26, 1975

Bob Bradley, Chairman
Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Bradley:

This will acknowledge your correspondence of the 19th.

Interestingly, we had a bill (HB 1278, enclosed) containing similar provisions, which died in committee yesterday, on collateral issues, i.e. investment adviser regulation. The amendment, strongly supported by the Division, did not contain restrictions dealing with pyramid distributorships since this legislation (also enclosed) was enacted separately in 1973.

We feel the delineation of the term "security" is proper and in order, and that it does not actually expand present law or create new jurisprudence, but is simply a restatement or codification of existing interpretation and judicial decision. This language should help clarify the enforcement problems, and serve practitioners, administrators, and courts alike in determining the issues and protecting the public interest. (I assume you are familiar with the Oklahoma securities act revisions in this regard.)

We originally took an approach, similar to yours, in addressing the "non-public offering" exemption which has been of particular concern to us in the matter of real estate syndications, but it was modified to permit essentially the same type of regulation by rule implementation and encompass The Rule 146 transaction. (see page 14-15 of our draft)

Here, again, we strongly concur with the objectives expressed in your bill, and that more specificity is needed in this area.

With best wishes for success in your endeavor.

Stanley R. Hays, Securities Commissioner

P.S. Also attached is release dated 12-31-74 and commentary (which was prepared prior to revision of our proposed amendment) dealing with the latter subject.

Jack White Company
REAL ESTATE
CALAIS OFFICE CENTER
3201 "C" STREET – ANCHORAGE, ALASKA 99503
PHONE (907) 277-1553

March 24, 1975

Honorable Bob Bradley
Chairman House Commerce Committee

Re: House Bill No. 289

Dear Sir:

Would you please read into the public hearing record the following comments:

We are in favor of increasing the exemption of offerees from 20 to 35 persons without a full registration statement.

We are definitely against Provisos B, C, and D. We feel that these provisos will cause the additional burden of expensive legal and accounting bills that the investors will eventually pay.

Our firm has had a great deal of experience in offering smaller investments to Alaska residents. It is our opinion that if the red tape is seriously increased, as the provisos appear to do, these investments will no longer be offered to the small and medium sized Alaskan investors, but will be offered, and sold, to large outside companies that can buy without offering prospectus red tape.

We would welcome the chance to testify at an Anchorage hearing. We believe that most of the investment opportunities eminate from Anchorage and to a lesser extent, Fairbanks.

Sincerely yours,

Sewell F. Faulkner

Sewell F. Faulkner
President

SFF/sn

cc: Miles S. Schlosberg

CHARLES A. LEDBETTER

LEASE BROKER

OIL AND GAS LEASES
LEASING
ROYALTIES

3037 KNIK AVENUE
ANCHORAGE, ALASKA 99503
AREA CODE 907
279-2331

March 25, 1975

All + have him come down — Mon.
leb.

HOUSE COMMERCE COMMITTEE

The Honorable Bob Bradley
The Honorable Tim Wallis
The Honorable Helen M. Fischer
The Honorable Oral Freeman
The Honorable Ramona M. Kelley
The Honorable Leo Rhode
The Honorable Richard K. Urion
Alaska State House of Representatives
Pouch "V" State Capitol Building
Juneau, Alaska 99811

This is to request, that a Public Hearing be held in Anchorage for HB 289, because there are more employed sales persons in Anchorage, who will be affected by this bill, than in any other part of the State. HB 289 removes the present 20 person exemption by the addition of Conditions A, B, C & D. These conditions will unduly restrict small real estate syndication and small oil and gas syndication, and the brokerage of real estate and oil and gas leases as is now permitted. I urge you to vote against HB 289 and to hold a Hearing in Anchorage.

Respectfully,

Charles A. Ledbetter

Charles A. Ledbetter

PLEASE REPLY VIA AIR MAIL

FOSTER & MARSHALL INC.
INVESTMENT BANKERS AND BROKERS
114 SOUTH FRANKLIN STREET
JUNEAU, ALASKA 99801
(907) 586-6000

MEMBERS
NEW YORK STOCK EXCHANGE, INC.
AMERICAN STOCK EXCHANGE

OFFICES
IN THE PRINCIPAL CITIES OF THE
PACIFIC NORTHWEST AND ALASKA

MARCH 28, 1975

I WOULD LIKE TO OFFER TESTAMONY IN OPPOSITION TO HOUSE BILL 289 "AN ACT RELATED TO EXEMPTION FROM THE ALASKA SECURITIES ACT OF 1959."

THE ALASKA SECURITIES ACT OF 1959 WAS DESIGNED TO PROVIDE CERTAIN SAFEGUARDS TO THE INDIVIDUAL CITIZEN OF ALASKA SURROUNDING VARIOUS TYPES OF INVESTMENT OPPORTUNITIES. THE CHANGE IN THIS BILL DELETING THE OFFER REQUIREMENT AND SUBSTITUTING THE SALES REQUIREMENT IN DEFINING AN EXEMPTION IS IN MY ESTIMATION GOOD. IT HAS BEEN DIFFICULT IN THE PAST TO PROVE WHAT CONSTITUTES AN OFFER TO SELL, WHERE ACTUAL SALES ARE RELATIVELY EASY TO DEFINE. HOWEVER, INCREASING THE NUMBER OF EXEMPT SALES TO 35 WILL OPEN THE DOOR TO MANY TYPES OF CARPETBAGGERS FROM THE LOWER 48 AND POTENTIAL FRAUDULENT SCHEMES, AT THE EXPENSE OF THE CITIZEN OF ALASKA.

AS A MEMBER OF THE SECURITIES INDUSTRY, I AM OPPOSED TO ANY ADDITION TO THE REGULATIONS ALREADY IMPOSED ON OUR INDUSTRY. HOWEVER, I AM ALSO OPPOSED TO LEGISLATION WHICH, IF CARRIED TO ITS EXTREME, COULD PERPETRATE MANY FRAUDULENT ACTS AND THEREBY CAST A VERY DARK SHADOW ON THE LEGITIMATE SECTION OF OUR INDUSTRY.

REGARDING THE FOUR PARAGRAPHS OF THE PROPOSED LEGISLATION, I HAVE THE FOLLOWING COMMENTS TO OFFER:

PARAGRAPH A: THIS PARAGRAPH RELATES TO THE REQUIREMENTS PLACED ON THE ISSUER CONCERNING THE FILING OF NOTICE OF EXEMPTION. NOWHERE IN THIS ACT ARE PROVISIONS MADE FOR PENALTIES TO ISSUERS WHO FAIL TO FILE THE REQUIRED NOTICE. SUCH PENALTIES SHOULD EITHER BE STATED SPECIFICALLY IN THIS ACT OR REFERENCED TO A SECTION OF THE SECURITIES ACT WHERE PENALTIES ARE SPECIFIED.

PARAGRAPH B: THIS PARAGRAPH CONCERNS INFORMATION THAT MUST BE FURNISHED TO THE PROSPECTIVE BUYER UNDER THIS SECTION.

"THIS SECTION" DEALS WITH EXEMPTION NOT REGISTRATION. THEREFORE, THIS REQUIREMENT MEANS NOTHING UNDER THIS SECTION. I WOULD SUGGEST DELETING THE WORDS "THIS SECTION" AND INSERTING THE WORDS "SECTION 100 OF THIS CHAPTER." SECTION 100 DEALS WITH FULL DISCLOSURE.

PARAGRAPH C: THIS PARAGRAPH DEALS WITH INFORMATION SUPPLIED TO THE BUYER IF A COMMISSION IS PAID ON THE SALE. WHY IS AN OFFERING CIRCULAR REQUIRED ONLY WHEN A COMMISSION IS PAID? THE INTENTION OF THE ALASKA SECURITIES ACT OF 1959 IS TO PROTECT THE BUYER. THIS ACT REMOVES WHAT PROTECTIONS THE BUYER ALREADY HAS. IT APPEARS TO ME THAT THE INTENT HERE IS TO PROTECT THE SELLER AT THE EXPENSE OF THE BUYER.

PARAGRAPH D: THIS PARAGRAPH DEALS WITH THE LEGEND REQUIRED ON DOCUMENTS EVIDENCING SECURITIES, AND THE STATEMENT THAT THESE SECURITIES CANNOT BE SOLD WITHOUT REGISTRATION UNDER THE ALASKA SECURITIES ACT OF 1959. THE LEGEND AND STATEMENT APPEAR TO BE REQUIRED AFTER THE SALE. A REQUIREMENT SHOULD BE PLACED ON THE SELLER THAT HE INFORM THE BUYER PRIOR TO THE SALE OF THE

RESTRICTIONS ON TRANSFER AS WELL AS WHAT IS REQUIRED IN THE WAY OF TIME AND DOLLARS TO REGISTER A SECURITY FOR SALE AND/OR TRANSFER.

I HAVE STATED THAT THE PASSAGE OF THE PROPOSED BILL WOULD OPEN THE DOOR TO INCREASED FRAUDULENT ACTIVITIES. YOU WILL SAY FRAUD IS NOT LEGAL IN ANY FORM, THEREFORE, THIS STATEMENT IS NOT VALID. IN AN IDEAL SITUATION YOU WOULD BE RIGHT. HOWEVER, THE PEOPLE WHO WOULD PERPETRATE THESE FRAUDS HAVE NO IDEALS, AND IT WOULD BE VERY DIFFICULT, IF NOT IMPOSSIBLE, TO APPREHEND INDIVIDUALS AFTER THE FACT. THE PLACE TO STOP SUCH FRAUDS IS NOT TO LET THEM GET STARTED.

IN CHECKING THE BACKGROUND OF THIS PROPOSED LEGISLATION, IT HAS COME TO MY KNOWLEDGE THAT ONE OF THE PRIMARY BENEFICIARIES OF THIS LEGISLATION WOULD BE REAL ESTATE DEVELOPERS IN THE STATE OF ALASKA. IT HAS BEEN POINTED OUT TO ME THAT CURRENT LAWS AND REGULATIONS HAMPER THE INTRASTATE ACTIVITIES INVOLVING REAL ESTATE SYNDICATIONS. I CAN UNDERSTAND AND SYMPATHIZE WITH THIS PROBLEM. HOWEVER, I BELIEVE A MORE DIRECT APPROACH WOULD BE LEGISLATION EXEMPTING INTRASTATE REAL ESTATE SYNDICATIONS FROM REGISTRATION AS NOW REQUIRED, BUT SETTING FORTH STREAMLINED REGISTRATION PROCEDURES THAT CAN BE ADMINISTERED UNDER THE ALASKA SECURITIES ACT OF 1959.

FRED K. KOKEN
VICE PRESIDENT & BRANCH MANAGER
FOSTER & MARSHALL, INC.

To: House Commerce Committee

Date: February 4, 1975

From: James L. Thompson
Securities Examiner
Division of Banking

Subject: Proposed amendment to AS 45.55.140(b)(5)

RECOMMENDED REVISION TO PROPOSED AMENDMENT TO
AS 45.55.140(b)(5) OF THE ALASKA SECURITIES ACT

(5) sales by an issuer to no more than 20 persons in this state, other than those designated in (b)(4) of this section, during a period of 12 consecutive months from the date of filing, whether or not the offeror or any of the offerees is then present in this state, if the seller reasonably believes that all buyers in this state are purchasing for investment, and the following conditions are met:

(A) the issuer files with the administrator a notice specifying the issuer, the security to be offered, and the terms of the offer at least 15 days before the offer is made,

(B) offers shall be made without public solicitation or advertisement,

(C) prior to any sales, each prospective buyer must be furnished all of the information that would be provided to a prospective buyer in a registration pursuant to AS 45.55.100. Access to this information shall be furnished the administrator upon his request;

(D) If a commission or other remuneration is paid or given directly or indirectly for soliciting a prospective buyer in this state, an offering circular containing all of the information required by AS 45.55.100 must be given to each prospective buyer. A copy of this offering circular must be filed with the administrator in conjunction with the filing of the exemption notice as required in subsection (A) above. Commissions or other remunerations must meet the requirements of this chapter and may be made only to persons registered under AS 45.55.040 of this chapter,

(E) A legend shall be placed on the certificate or other document evidencing ownership of the security stating that the securities are not registered under the Act, and setting forth restrictions on transferability and sale of the securities. The issuer shall also obtain from the buyer a signed agreement acknowledging that the securities will not be re-sold without registration under the Act or exemption therefrom,

(F) The total dollar amount of the transaction does not exceed $250,000;

IN REPLYING PLEASE QUOTE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
REGIONAL OFFICE
SEATTLE, WASHINGTON

SECURITIES AND EXCHANGE COMMISSION
ROOM 3040 FEDERAL BUILDING
915 SECOND AVENUE
SEATTLE, WASHINGTON 98174

DEPARTMENT OF COMMERCE

February 19, 1975

James L. Thompson
Securities Examiner
Alaska Dept. of Commerce
Pouch D
Juneau, Alaska 99801

Re: Proposed revision of AS 45.55

Dear Mr. Thompson:

Thank you for forwarding this office a copy of the proposed revision of AS 45.55.140(b)(5) under the Alaska State Securities Act.

As we have discussed in the past, amendments and rules adopted by the federal Securities and Exchange Commission are not intended to be models for the state authorities. The existence of strong state regulation permits the Commission to spread our thin staff over more interstate and international violations and leave geographically isolated securities offerings to such local regulation.

Therefore, we are somewhat alarmed if state governments pattern exemptions from local regulation on exemptions which the federal authorities feel are appropriate in large part because we rely on state governments to police them. This creates loopholes, which in turn results in a demand by the public for stronger federal regulation.

With this in mind, we note that the proposal you sent us, which proposes to exempt sales to 35 residents of Alaska, would create the danger of a loophole which might result in an absence of regulation of very large offerings. The proposal does not provide for the safeguards, such as sophisticated ability to evaluate the business risks, or ability to bear the possibilities of total loss, which the Federal Rule 146 requires. The federal rule hinges upon this ability to fend for oneself, thus making registration of sales to 35

persons less necessary (suitably restricted so that nominees, companies, trusts and the like are counted as one investor for each beneficial owner of interests in such nominees, companies, trusts, etc.)

If Alaska exempts from registration offerings to a limited number of persons, the proposal by your office that the exemption be limited to 20 would appear to be the maximum number which the state should consider, and the definition of those persons should be made so as to avoid evasions through corporations and trusts which themselves have securities to offer. Also, as you propose, the dollar amount, notification requirement, sophistication test and prospectus test should be retained, in our opinion.

Sincerely,

Jack H. Bookey

Jack H. Bookey
Regional Administrator

3/31/75

Proposed Revisions by the Division of Banking

HOUSE BILL 289

* Section 1. AS 45.55.140(b)(5) is amended to read:

(5) a transaction involving sales by an issuer to not more than 20 persons, other than those designated in (b)(4) of this section, in this state during a period of 12 consecutive months from the date of filing, whether or not the offeror or any of the offerees is then present in this state, if the seller reasonably believes that all the buyers in this state are purchasing for investment, provided the issuer meets the following conditions:

(A) the issuer files with the administrator a notice specifying the issuer, the security to be offered, and the terms of the offer at least 10 days before any offer is made;

(B) before any sales, each prospective buyer must be given an offering circular containing all of the information required by sec. 100 of this chapter; a copy of this offering circular must be filed with the administrator in conjunction with the filing of the exemption notice in (A) of this paragraph;

(C) if commissions or other remunerations is paid or given directly or indirectly for soliciting a prospective buyer in this state, they must meet the requirements of this chapter and may be made only to persons registered under AS 45.55.040 of this chapter;

(D) a legend shall be placed on the certificate, or other document evidencing the securities, stating that the securities have not been registered under the Alaska Securities Act of 1959, setting out restrictions on transferability and sale of the securities; the issuer shall obtain from the buyer a signed agreement acknowledging that the securities will not be sold without registration under the Alaska Securities Act of 1959 or exemption from it;

(E) offers shall be made without public solicitation or advertisement;

(F) the total dollar amount of the transaction does not exceed $250,000;

(underlined parts are the proposed revisions to House Bill 289)

3/31/75

Proposed Revisions by the Division of Banking

HOUSE BILL 289

Justification for Division's Recommended Changes

The proposed amendment, as presently written, would add some safeguard to public protection but would also create loopholes that could cause great harm to the investing public and to the purposes of the Alaska Securities Act of 1959. With the adequate protective changes which are proposed by the Division of Banking, the amendment could well serve the interests of both the businessman and the investing public, and not serve as a tool of avoiding the securities laws, as the present proposed bill does.

The proposed bill, as presently written, would lend itself to abuses in the areas of real estate and oil and gas limited partnerships and tax shelters. This has been recently seen in Colorado. According to William J. Anderson, Assistant Commissioner of the Division of Securities of Colorado, over 50 misleading and unfair issues have been sold in Colorado since 1969 as a direct result of their past "wide open" private offering exemption. These abuses have been primarily in the area of real estate securities, according to Mr. Anderson.

The passage of this proposed amendment, as presently written, would give Alaska the dubious distinction of being the easiest state in the country to avoid registration. Only two states, Iowa and Virginia, permit as many as 35 sales, but these two states also have restrictions that limit the total holders to 35 individuals. Thirty one states, including Alaska presently, limit the exemption to 25offers or less. Of the 18 states that currently have sales only, ten limit such sales to 15 individuals or less. The passage of this exemption as presently written would take Alaska completely away from the progressive approach to securities regulation that has been the hallmark of most states since the Securities & Exchange Acts were passed in 1933 and 1934. (emphasis added).

The Division recommends limiting sales to 20 and total dollar amount to $250,000. We do not oppose the sales only aspect as long as notification is required. Sales only with the notification proviso will result in easier enforcement than the nebulous 20 "offers". It will also provide a more clearly defined guideline for the businessman in the raising of capital. We feel it should be limited, however, to both a number and dollar figure to insure that it is truly a "private offering" and to make more certain that the investor is able to fend for himself.

The Division proposes that Subsection B be changed to require filing with the administrator. This insures full disclosure.

The Division proposes that Subsection C be changed to require fair commissions and to require that salespersons be registered

with the Division. This is to comply with the requirements that the rest of the securities industry already has to comply with in Alaska.

We recommend inclusion of restrictions on advertising in order to insure that this private offering exemption is truly "private".

The Division of Banking feels that with these revisions, the proposed amendment would be an improvement over the present offering exemption, but without these proposed revisions, the amendment could easily lead to abuses, especially by promoters outside of Alaska.

Form 02-002

STATE OF ALASKA
Inter-Department Route Slip

TO:
DEPT.: Office of Gov

ATTN.: Fran Ulmer

☐ Approval	☐ Note & Return
☐ Signature	☐ Initial & Return
☐ Comment	☒ Return As Requested
☐ Contact Me	☐ Return For Approval
☐ Prepare Reply	☐ Necessary Action
☐ For Your File	☐ Your Information

Remarks:

From:
Dept.: Admin (DLG) Date 3/28

By: Kent

The Legislature of the State of Alaska
FISCAL NOTE

First Session - Ninth Legislature

I. REQUEST

Bill No. House Bill No. 298

Title: An act relating to the definition of security

Requested by: _____ Date: March 28, 1975

Return Date Requested: _____

Agency: Department of Commerce Program: Banking, Securities, etc

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II. FISCAL DETAIL

Budget Request Unit(s) Affected: None

A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 75	FY 76	FY 77	FY 78	FY 79	FY 80
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

B. FUNDING: (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY						
MAN MONTHS (P./T.)						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

...ll clear up areas which previously had prevented prompt
... be devoted to

02-001B (REV. 08-73)

MEMORANDUM
DEPARTMENT OF COMMERCE

State of Alaska
DIVISION OF BANKING, SECURITIES, SMALL LOANS AND CORPORATIONS

TO: Mike Clemens
Budget Analysist

DATE: March 28, 1975

FILE NO:

TELEPHONE NO: 465-2533

FROM: William W. Ladwig
Deputy Director

SUBJECT: HB 298

You have asked what fiscal impact this proposed legislation, if passed, will have on the State.

The answer is, in effect, none.

Passage of this legislation will save the State costs presently associated with the investigation and ajudication necessary to determine that these schemes (covered by the proposal) are securities. Courts in the lower "48" have continuously held such schemes to be securities. By inclusion in the definition of these ventures, the State can immediately move for civil or criminal sanctions without prior effort to determine our jurisdiction.

Time and cost savings by this proposed legislation will be absorbed by allowing the State to devote greater time to the more complex violations.

WWL:mls

LUM LOVELY **Geologist**

SUITE 440 • ANCHORAGE LEGAL CENTER • 1016 WEST SIXTH AVENUE
ANCHORAGE • ALASKA • 99501 PHONE • (907) 277-1551
OIL, GAS & MINERAL PROPERTIES

April 2, 1975

The Honorable Bob Bradley, Chairman,
and each and every member of the
House Commerce Committee
Pouch V
Juneau, Alaska 99811

Re: House Bill No. 289

Ladies and Gentlemen:

If this letter reaches you before House Bill No. 289 is submitted to the floor of the house for consideration by the full assembly, I would appreciate your giving my following comments concerning the bill your serious consideration.

First, let me assure you that I am wholly in favor of paragraph (5) of the bill wherein "a transaction involving sales by an issuer to not more than 35 persons..." is exempted from full registration under the Alaska Securities Act of 1959.

In the interest of fostering and maintaining a secure place for the small entrepreneur within the framework of the free enterprise system in Alaska, however, I must vehemently protest the inclusion of provisions (A) and (B) in HB 289.

Because in my opinion provision (B) is the most devastating to the small entrepreneur, it is discussed first and more comprehensively than provision (A). A brief illustration following the discussion for provision (B) shows how provision (A) would kill all securities transactions wherein time is of the essence and speedy action on short notice is paramount.

Provision (B) will price the small entrepreneur out of business

The high cost of registering a security for sale to the public is well known. A prominent Anchorage real estate firm recently spent approximately $20,000, for example, in compiling information required to "go public" with a real estate syndication -- and it is not unusual for such registration costs to exceed $50,000.

Even the cost of a private offering can be high, when information required for a public offering must be compiled by the issuer for presentation to the prospective purchasers of his securities. A little over a year ago, for example, a well known Anchorage-based oil and gas consultant formed a non-public corporation, involving less than 35 stockholders, under then tentative federal securities guidelines (now SEC Rule 146) requiring him to furnish each prospective shareholder with all of the information which he would have to furnish under statutes and regulations governing full registration. To compile this information, he spent approximately $50,000.

Obviously, full registration is out of the question financially for the "Mom and Pop" enterprise and for the small venture requiring a total capitalization of as little as a few hundred or, at most, a few thousand dollars from a handful of friends, relatives, or close associates.

To encourage the small entrepreneur and thereby nurture the healthy growth of a strong and competitive network of small businesses as a vital part of America's free enterprise system, most states, including Alaska, now provide exemptions relieving the small enterprise from the financial burden of full registration. By requiring "...all of the information that would be provided to a prospective buyer in a registration under this section...", however, provision (B) of HB 289 dumps the financial burden of full registration right back into the lap of each and every entrepreneur in Alaska, whether or not the entrepreneur wants to "go public" and no matter how much or how little capitalization is involved.

While provision (B) of HB 289, if enacted into law, would create a strong negative impact on Alaskan free enterprise in general, it would be financially devastating to me personally. My livelihood is dependent almost entirely upon my freedom to conduct inexpensive and red-tape-free transactions with associates, involving oil and gas leases or certificates of interest therein. Such interests, of course, are defined as securities in the Alaska Securities Act.

Typical of the many transactions which I conduct annually is one which involves the joint ownership of a single oil and gas lease by myself and an associate who agrees to pay the required lease rentals directly to the State of Alaska (not to me). In return for my specialized knowledge and services in connection with the lease, I am allowed to earn a percentage of any net profits realized from the sale of the lease to an oil company after, and only after, my associate first recovers from the sales proceeds an amount equal to all of his prior rental payments for the lease.

Rental payments for any single lease will usually range between $320.00 and $1,280.00 annually; and seldom is a lease ever sold to an oil company for an amount which would equal, let alone exceed, what I would have to pay to furnish my associate with the information required for full registration of the aforementioned transaction under the Alaska Securities Act.

I believe the foregoing example clearly demonstrates why I am forced to rely on the exemption now provided by Alaska Statute AS 45.55.140 (b)(5) for my economic viability, though it limits my exposure to potential investors.

Provision (A) will kill the speedy transaction

In addition to the cost aspect of provision (B) of HB 289, I am also vitally concerned with the time element contained in provision (A) of the bill. Often, for example, I have less than 24 hours in which to raise the

necessary lease rentals from an associate in order to take advantage of a one-time-only leasing opportunity where time is of the essence and speedy action is paramount. Should I be required to comply with provision (A) by giving 10 days notice to the Commissioner, of course, such short-term leasing opportunities would be lost to me forever.

Additional consequences of provision (B)

Whether I own an oil and gas lease as the sole party in interest or as a tenant in common with an associate, provision (B) of HB 289 would also force me to prepare all information required for full registration each time I sell a lease to an oil company, even though the oil company neither needs nor desires such information.

In addition, oil companies dealing among themselves would also be required to furnish each other with this same costly and, in most cases, unneeded and unwanted information when securities such as oil and gas leases are involved.

Prospectors seeking grubstakes, mining companies dealing among themselves in connection with mining interests, real estate companies who are involved with each other in real estate syndications, and untold numbers of other established businesses dealing with each other where securities are involved, would all have to comply with provision (B) of HB 289 no matter how much it might cost or how little the security in question might be worth.

Summary

It has long been my idealistic belief that a place should be reserved for the small entrepreneur in the world of free enterprise, for without him we would all eventually be controlled by a handful of corporate giants to the sorrow and misery of us all.

As a long-time lay student of securities laws and the free enterprise system of economics, it is my humble opinion that provisions (A) and (B) combine to abort the original intent of the exemption from full registration which is presently in effect here in Alaska and, in similar form, in most other states. Provision (A), for example, kills the securities transaction -- large or small, public or private -- wherein time is of the essence and speedy action is paramount, while provision (B) ties the hands of oil companies, mining companies, real estate and other types of companies in their every day dealings with one another. Provision (B), of course, will guarantee the demise of the small entrepreneur in Alaska and, most certainly, it will put me out of business.

The Hon. Bob Bradley et al
Re: HB 289

April 2, 1975

Recommendation

In view of the foregoing observations, and if it is not too late to do so, I urge you to strike provisions (A) and (B) from HB 289 entirely or, at least, to modify or amend the bill in such a way that any transaction involving a certificate of interest or participation in an oil, gas, or mining title or lease, or in payments out of production under the title or lease, would be exempt from the requirements of provisions (A) and (B) of HB 289.

Also, if it could be arranged before the bill is submitted to the full House for final vote, I would appreciate being given an opportunity to present my views regarding HB 289 at a public hearing here in Anchorage where most of Alaska's small ventures originate. Should any of you have any questions or require any additional information, please do not hesitate to give me a call.

Very truly yours,

L. C. LOVELY, JR.
a/k/a LUM LOVELY, GEOLOGIST

cc: Miles S. Schlosberg

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

360 K STREET—SUITE 105
ANCHORAGE 99501

April 1, 1975

File
HB298

The Honorable Bob Bradley
State House of Representatives
Chairman, Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Bradley:

You have asked for comments on House Bill 289 which is an act relating to exemptions from the Alaska Securities Act of 1959.

Please be aware that we have been working very closely with the Securities and Banking Division of the Department of Commerce and have seen many abuses and violations of the securities law as it is presently written. Insofar as changing the amount of sales by an issuer, we are not in agreement that 35 persons should be allowed to be made offers to. We believe this is far in excess of what is necessary for the safety of the public and therefore would keep the amount of persons at 20. In addition, I understand that the Division of Banking and Securities has also asked for a dollar figure and in that regard I would say that $100,000 would be more than enough under the circumstances. It is my understanding that they have asked for more but I still would believe that insofar as investment opportunites are concerned, we are going to be into a much more serious fraudulent situation than we presently are in. Therefore the law has to be as tight as possible under the circumstances for the protection of the Alaska public.

#1

#2

We also agree with the concept of a filing of notice and would think that an offering circular also should be filed. In addition, there should be a prohibition against advertisements on the offers since these are supposed to be of a private nature.

#3

#4

Please understand that there definitely needs to be a very strong law regarding solicitation for investments

and I am sure that you have received from Investigator James L. Thompson a good indication of what has happened in our State due to the pipeline impact.

In regard to House Bill 298, the new definition of the security is pretty much in keeping with other jurisdictions, and certainly is again a necessary protection feature for the public and consumers. I am sure you have already been told about the loss of many thousands of dollars by persons who purchased fraudulent commodity options in our State and pyramid sale operations. We therefore would very strongly back the additions to the definition of "security" found in this bill.

Very truly yours,

AVRUM M. GROSS
ATTORNEY GENERAL

By: Stanley Howitt
Stanley Howitt
Assistant Attorney General
Consumer Protection Division

SH:me

Golden Horn Lodge

April 10, 1975

Fill

The Honorable Bob Bradley
Chairman, House Commerce Committee
House of Representatives
Pouch V
Juneau, AK 99811

RE: HOUSE BILL 289

Dear Sir:

I am very concerned about the far reaching consequences of House Bill 289. I believe that the financial consequences to businessmen in Alaska will be far more serious and disruptive to the free enterprise system than you had realized and intended.

It appears that you submitted the bill in an effort to regulate the private placement of securities in Alaska. As the bill reads, however, it will regulate and effectively prohibit most of the private transactions necessary to finance small businesses.

The bill could ultimately prohibit such varying financial transactions as "grubstaking" a prospector, joint ventures by two large companies where the percentage of capital contribution is different than the percentage of interest, permitting a valuable employee to purchase stock or interest in a business, joint purchases of oil and gas leases, and incorporations or formation of limited partnerships among small groups of knowledgeable individuals.

The cost of complying with House Bill 289 in its present form would be at least $20,000 and probably closer to $50,000 for each of the above financial transactions. Obviously, its cost will in most cases be greater than the actual transaction and will therefore effectively prohibit that transaction from occurring.

I don't believe that the people of Alaska need or want this kind of protection. If the intent of House Bill 289 is to facilitate private placement to more than 20 and less than 35 individuals, then important exceptions need to be included in the bill permitting

the uninvolved transaction of smaller placements. If the intent of the bill is to prohibit all such transactions without filing with the Department of Commerce, then the far reaching and harmful consequences must be taken into consideration.

I appreciate your concern about this matter.

Very truly yours,

W. E. Shoemaker

WES:md

cc: Miles S. Schlosberg

TO: Banking DATE: March 19, 1975

(~~SENATE~~ - HOUSE) BILL 298

RE: An Act relating to the definition of security.

Check One:

1. TOP PRIORITY - in favor of. X
2. FAVOR - in favor of, but not top priority.
3. OK - no definite stand.
4. NOT IN FAVOR -
5. TOP PRIORITY - "Strongly Opposed"
6. BILL DOES NOT PERTAIN TO DIVISION

COMMENTS: (Justification must be stated for the above line checked - continue on another page if needed.)

1. Codifies predominant court decisions (federal and other states) and follows statutes of progressive states,e.g. Wisc., Okla., Nev.

2.Codification eliminates uncertainty, will assure easier, quicker adjudication of enforcement actions and less expense in litigation and investigation.

3. Extensive definition of "commodity options"as a security is too fuzy and indefinite and the discretion given to the Administrator (currently this writer) could easily be abused because of extensive grant of power. However, I favor broad charter now because it will make it easier to prosecute "pipeline boom boilershops", i.e. shaky and unethical precious metals and securities dealers, and perchance will discourage others from even coming to this state. Therefore the power is a good interim measure which should be reviewed in a few years...Much like A.S. 45.55.140(b)(5) prior to its 1972 amendment removeing discretion from Administrator.

4. Alaska has been hit with silver commodity frauds, and pyramid sales frauds in 1972-1974: if these new phrases had been added to the law then it is probable that one of the major pryamid schemes, Dare To Be Great, might never have been promoted here.

Writer's Signature: Myles J. Schlosberg
Writer's Title: Director, Div. Banking, Securities, etc.
(DEADLINE 24 hours)

REASONS TO ADOPT THE NEW LAW
AMENDING THE ALASKA SECURITIES ACT

HONORABLE LEGISLATORS:

Most investment capital financing in this state is done by means of the private offering exemption provided in A.S. 45-.55.140(b)(5). As our state grows and has more money available for its rapidly increasing private investment needs, it becomes apparent to any financier, businessman or lawyer who practices in the field that the current provision is unworkable to all of those affected, i.e. (1) the businessmen issuing securities, (2) the investor, and (3) the regulator, which is the Dept. of Commerce's Division of Banking and Securities.

I Deficiencies in the present law.

(Please refer to A.S. 45,55.140(b)(5), Securities Act, page 23 of pamphlet available at secretary's desk.)

A. Issuer
1. Twenty "offers" in 12 months is a nebulous standard to comply with since "offer" has never been clearly defined.
2. Twenty is too small a number to be effective for business financing.
3. No "commission" means that a professional investment banker's services cannot be hired, making it more difficult to efficiently market the securities and making it almost impossible to sell a sufficient amount to the first twenty offerees.

B. Investor
1. No safeguard of full disclosure. Full disclosure is the heart and basic intent of all federal and state securities regulation, yet our law does not require any.
> "The purpose of the Alaska Securities Act of 1959 and the regulations supporting the Act are to provide full and fair disclosure to the Alaskan investor and to provide a proper framework for the raising of investment capital by business." (Annual Report of the Dept. of Commerce, 1973-4, p.8, also see Schlosberg, Financing Alaskan Enterprises: Securities Law Implications, 4 UCLA-Alaska Law Review, pp. 12, 16 (1974).

2. Convenience of professional investment marketing and structuring is not available, because no investment banker would become involved since he could not earn remuneration for his services.

C. Regulator
1. Enforcement extremely difficult and costly because "offer" is vague, no judicial definitions, and must have at least twenty-one witnesses to show exceeded the 20 offer limit.

2. Administrator not made aware of activity in area until disaster has already struck, because there are no notification procedures.

II How Law would correct deficiencies

A. Issuer
1.""Sales" is a more definite and easier planning criterion.
2. Thirty-five sales permit raising a sufficient amount of capital for many small enterprises, yet is a small enough number to permit each investor receiving the individual attention condusive to complete disclosure, the Securities and Exchange Commission (17 CFR 230,146 91 1974) and most states use this number, uniformity will be achieved.
3. An investment banker can be employed to raise money promptly through his investor clients, also investment bankers are held to high regulatory standards under AS 45 .55.030.060.

B. Investor
1. Full disclosure, protection and better judgement of investment.
2. Benefit of an investment banker's expertise.

C. Regulator
1. Enforcement is easier, quicker, and cheaper, and only one witness is needed. There is a clear criterion of "sales" also.
2. Result - stop disasters before they occur.

III Conclusion

Economic activity generated by the Native Claims and natural resources exploitation can increase local business growth and provide Alaskans excellent investment opportunities. The money generated here ought to be reinvested here - especially when opportunities abound. Investment is being discouraged because of the provate offering law. AS 45.55.140(b)(5) is not working well. You now have the opportunity to correct this. I respectfully request you do so.

Please keep the undersigned advised of all events regarding this legislation. I will be glad to assist with further drafting and testimony. At the House Commerce Committee informational hearing on the new bill, held on 2/3/75, it was agreed that the Committee would sponsor the bill and hopefully hold further hearings February 14, 1975.

NOSEK, BRADBURY, WOLF & SCHLOSBERG

Miles Schlosberg

Appendix:
The Alaska Securities Act is analyzed in the recent law review article by Miles Schlosberg in the Fall issue, 1974, of the UCLA-Alaska law Review pp 12-55. See pp 31-35 and 46-50 for discussion of the private offering laws. Copy available from the secretary for the Commerce Committee.

FOSTER & MARSHALL INC.
INVESTMENT BANKERS AND BROKERS
114 SOUTH FRANKLIN STREET
JUNEAU, ALASKA 99801
(907) 586-6600

MEMBERS
NEW YORK STOCK EXCHANGE, INC.
AMERICAN STOCK EXCHANGE

OFFICES
IN THE PRINCIPAL CITIES OF THE
PACIFIC NORTHWEST AND ALASKA

MARCH 28, 1975

I WOULD LIKE TO OFFER TESTAMONY IN OPPOSITION TO HOUSE BILL 289 "AN ACT RELATED TO EXEMPTION FROM THE ALASKA SECURITIES ACT OF 1959."

THE ALASKA SECURITIES ACT OF 1959 WAS DESIGNED TO PROVIDE CERTAIN SAFEGUARDS TO THE INDIVIDUAL CITIZEN OF ALASKA SURROUNDING VARIOUS TYPES OF INVESTMENT OPPORTUNITIES. THE CHANGE IN THIS BILL DELETING THE OFFER REQUIREMENT AND SUBSTITUTING THE SALES REQUIREMENT IN DEFINING AN EXEMPTION IS IN MY ESTIMATION GOOD. IT HAS BEEN DIFFICULT IN THE PAST TO PROVE WHAT CONSTITUTES AN OFFER TO SELL, WHERE ACTUAL SALES ARE RELATIVELY EASY TO DEFINE. HOWEVER, INCREASING THE NUMBER OF EXEMPT SALES TO 35 WILL OPEN THE DOOR TO MANY TYPES OF CARPETBAGGERS FROM THE LOWER 48 AND POTENTIAL FRAUDULENT SCHEMES, AT THE EXPENSE OF THE CITIZEN OF ALASKA.

AS A MEMBER OF THE SECURITIES INDUSTRY, I AM OPPOSED TO ANY ADDITION TO THE REGULATIONS ALREADY IMPOSED ON OUR INDUSTRY. HOWEVER, I AM ALSO OPPOSED TO LEGISLATION WHICH, IF CARRIED TO ITS EXTREME, COULD PERPETRATE MANY FRAUDULENT ACTS AND THEREBY CAST A VERY DARK SHADOW ON THE LEGITIMATE SECTION OF OUR INDUSTRY.

REGARDING THE FOUR PARAGRAPHS OF THE PROPOSED LEGISLATION, I HAVE THE FOLLOWING COMMENTS TO OFFER:

PARAGRAPH A: THIS PARAGRAPH RELATES TO THE REQUIREMENTS PLACED ON THE ISSUER CONCERNING THE FILING OF NOTICE OF EXEMPTION. NOWHERE IN THIS ACT ARE PROVISIONS MADE FOR PENALTIES TO ISSUERS WHO FAIL TO FILE THE REQUIRED NOTICE. SUCH PENALTIES SHOULD EITHER BE STATED SPECIFICALLY IN THIS ACT OR REFERENCED TO A SECTION OF THE SECURITIES ACT WHERE PENALTIES ARE SPECIFIED.

PARAGRAPH B: THIS PARAGRAPH CONCERNS INFORMATION THAT MUST BE FURNISHED TO THE PROSPECTIVE BUYER UNDER THIS SECTION.

"THIS SECTION" DEALS WITH EXEMPTION NOT REGISTRATION. THEREFORE, THIS REQUIREMENT MEANS NOTHING UNDER THIS SECTION. I WOULD SUGGEST DELETING THE WORDS "THIS SECTION" AND INSERTING THE WORDS "SECTION 100 OF THIS CHAPTER." SECTION 100 DEALS WITH FULL DISCLOSURE.

PARAGRAPH C: THIS PARAGRAPH DEALS WITH INFORMATION SUPPLIED TO THE BUYER IF A COMMISSION IS PAID ON THE SALE. WHY IS AN OFFERING CIRCULAR REQUIRED ONLY WHEN A COMMISSION IS PAID? THE INTENTION OF THE ALASKA SECURITIES ACT OF 1959 IS TO PROTECT THE BUYER. THIS ACT REMOVES WHAT PROTECTIONS THE BUYER ALREADY HAS. IT APPEARS TO ME THAT THE INTENT HERE IS TO PROTECT THE SELLER AT THE EXPENSE OF THE BUYER.

PARAGRAPH D: THIS PARAGRAPH DEALS WITH THE LEGEND REQUIRED ON DOCUMENTS EVIDENCING SECURITIES, AND THE STATEMENT THAT THESE SECURITIES CANNOT BE SOLD WITHOUT REGISTRATION UNDER THE ALASKA SECURITIES ACT OF 1959. THE LEGEND AND STATEMENT APPEAR TO BE REQUIRED AFTER THE SALE. A REQUIREMENT SHOULD BE PLACED ON THE SELLER THAT HE INFORM THE BUYER PRIOR TO THE SALE OF THE

RESTRICTIONS ON TRANSFER AS WELL AS WHAT IS REQUIRED IN THE WAY OF TIME AND DOLLARS TO REGISTER A SECURITY FOR SALE AND/OR TRANSFER.

I HAVE STATED THAT THE PASSAGE OF THE PROPOSED BILL WOULD OPEN THE DOOR TO INCREASED FRAUDULENT ACTIVITIES. YOU WILL SAY FRAUD IS NOT LEGAL IN ANY FORM, THEREFORE, THIS STATEMENT IS NOT VALID. IN AN IDEAL SITUATION YOU WOULD BE RIGHT. HOWEVER, THE PEOPLE WHO WOULD PERPETRATE THESE FRAUDS HAVE NO IDEALS, AND IT WOULD BE VERY DIFFICULT, IF NOT IMPOSSIBLE, TO APPREHEND INDIVIDUALS AFTER THE FACT. THE PLACE TO STOP SUCH FRAUDS IS NOT TO LET THEM GET STARTED.

IN CHECKING THE BACKGROUND OF THIS PROPOSED LEGISLATION, IT HAS COME TO MY KNOWLEDGE THAT ONE OF THE PRIMARY BENEFICIARIES OF THIS LEGISLATION WOULD BE REAL ESTATE DEVELOPERS IN THE STATE OF ALASKA. IT HAS BEEN POINTED OUT TO ME THAT CURRENT LAWS AND REGULATIONS HAMPER THE INTRASTATE ACTIVITIES INVOLVING REAL ESTATE SYNDICATIONS. I CAN UNDERSTAND AND SYMPATHIZE WITH THIS PROBLEM. HOWEVER, I BELIEVE A MORE DIRECT APPROACH WOULD BE LEGISLATION EXEMPTING INTRASTATE REAL ESTATE SYNDICATIONS FROM REGISTRATION AS NOW REQUIRED, BUT SETTING FORTH STREAMLINED REGISTRATION PROCEDURES THAT CAN BE ADMINISTERED UNDER THE ALASKA SECURITIES ACT OF 1959.

FRED K. KOKEN
VICE PRESIDENT & BRANCH MANAGER
FOSTER & MARSHALL, INC.

CHARLES A. LEDBETTER

LEASE BROKER

OIL AND GAS LEASES
LEASING
ROYALTIES

3037 KNIK AVENUE
ANCHORAGE, ALASKA 99503
AREA CODE 907
279-2331

March [illegible], 1975

All + have him come down — Mon. feb.

HOUSE CONFEREE COMMITTEE

The Honorable Bob Bradley
The Honorable Tim Wallis
The Honorable Helen M. Fischer
The Honorable Oral Freeman
The Honorable Rosana M. Kelley
The Honorable Leo Rhode
The Honorable Richard V. Uvian
Alaska State House of Representatives
Pouch "V" State Capitol Building
Juneau, Alaska 99811

This is to request, that a Public Hearing be held in Anchorage for HB 780, because there are more employed sales persons in Anchorage, who will be affected by this bill, than in any other part of the State. HB 780 removes the present 20 person exemption by the addition of Conditions A, B, C & D. These conditions will unduly restrict small real estate syndication and small oil and gas syndication, and the brokerage of real estate and oil and gas leases as is now permitted. I urge you to vote against HB 780 and to hold a Hearing in Anchorage.

Respectfully,

Charles A. Ledbetter

Charles A. Ledbetter

PLEASE REPLY VIA AIR MAIL

Jack White Company
REAL ESTATE
CALAIS OFFICE CENTER
3201 "C" STREET -- ANCHORAGE, ALASKA 99503
PHONE (907) 277-1553

March 24, 1975

Honorable Bob Bradley
Chairman House Commerce Committee

Re: House Bill No. 289

Dear Sir:

Would you please read into the public hearing record the following comments:

We are in favor of increasing the exemption of offerees from 20 to 35 persons without a full registration statement.

We are definitely against Provisos B, C, and D. We feel that these provisos will cause the additional burden of expensive legal and accounting bills that the investors will eventually pay.

Our firm has had a great deal of experience in offering smaller investments to Alaska residents. It is our opinion that if the red tape is seriously increased, as the provisos appear to do, these investments will no longer be offered to the small and medium sized Alaskan investors, but will be offered, and sold, to large outside companies that can buy without offering prospectus red tape.

We would welcome the chance to testify at an Anchorage hearing. We believe that most of the investment opportunities eminate from Anchorage and to a lesser extent, Fairbanks.

Sincerely yours,

Sewell F. Faulkner

Sewell F. Faulkner
President

SFF/sn

cc: Miles S. Schlosberg

DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF SECURITIES
230 STATE OFFICE BUILDING • 201 E. COLFAX AVE.
DENVER, COLORADO 80203 • TELEPHONE 892-2507

STATE OF COLORADO
RICHARD D. LAMM
GOVERNOR

STANLEY R. HAYS
SECURITIES COMMISSIONER

WILLIAM J. ANDERSON
ASST. SECURITIES COMMR.

March 26, 1975

Bob Bradley, Chairman
Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Bradley:

This will acknowledge your correspondence of the 19th.

Interestingly, we had a bill (HB 1278, enclosed) containing similar provisions, which died in committee yesterday, on collateral issues, i.e. investment adviser regulation. The amendment, strongly supported by the Division, did not contain restrictions dealing with pyramid distributorships since this legislation (also enclosed) was enacted separately in 1973.

We feel the delineation of the term "security" is proper and in order, and that it does not actually expand present law or create new jurisprudence, but is simply a restatement or codification of existing interpretation and judicial decision. This language should help clarify the enforcement problems, and serve practitioners, administrators, and courts alike in determining the issues and protecting the public interest. (I assume you are familiar with the Oklahoma securities act revisions in this regard.)

We originally took an approach, similar to yours, in addressing the "non-public offering" exemption which has been of particular concern to us in the matter of real estate syndications, but it was modified to permit essentially the same type of regulation by rule implementation and encompass The Rule 146 transaction. (see page 14-15 of our draft)

Here, again, we strongly concur with the objectives expressed in your bill, and that more specificity is needed in this area.

With best wishes for success in your endeavor.

Stanley R. Hays, Securities Commissioner

P.S. Also attached is release dated 12-31-74 and commentary (which was prepared prior to revision of our proposed amendment) dealing with the latter subject.

STATE OF COLORADO - DIVISION OF SECURITIES - DEPARTMENT OF REGULATORY AGENCIES
230 State Office Building Denver 80203

NON-PUBLIC OFFERING EXEMPTION
i.e. PRIVATE PLACEMENTS

ADMINISTRATIVE OPINION
RELEASE: December 13, 1974

The Division has received numerous requests for interpretive opinions relating to proposed "Transactions not involving any public offering" pursuant to Section 125-1-13(2)(j) of the securities act, particularly as it pertains to real estate syndications (limited partnerships). The problem has been compounded by the adoption of Rule 146 by the Securities and Exchange Commission.

Many issuers, sponsors, and attorneys have assumed that if the conditions of that rule are met, there is automatic compliance with state requirements for an exemption from registration. It is to be noted that the SEC has specifically expressed that such rule is not intended to supersede state regulation of local offerings and, on the contrary, these are matters of local concern which properly should be relegated and administered under respective state jurisdiction. The fact that an offering meets the requirements for an exemption under R.146 is not significant in determining whether it is exempt from the provisions of the Colorado act.

The criteria used to substantiate the availability of an exemption under sub-section (2)(j) are as follows:

(1) Number of offerees-and Number of actual purchasers or subscribers.
(2) Offerees' relationship to issuer and to each other-pre-existing personal or business affiliation and financial experience such that they could reasonably be expected to fend for themselves, and not need the protection afforded by the registration requirements.
(3) Offerees' knowledge-special information or access to material data concerning issuer, its financial condition, business operations, intended use of proceeds, management, etc.
(4) Manner of offering-Size, amount and number of units. Type, nature and scope of distribution, and whether Commission, direct or indirect remuneration to be paid in connection with the offer or sale of the security involved in the transaction.
(5) No general advertising for general circulation or public solicitation is to be used.
(6) Commitment by offeree that the security is being taken for investment only and not for the purpose of resale or distribution.

The "private placement" or limited offering evolved from the "Mom and Pop grocery" concept (permitting distribution to "friends and relatives", organizers, promoters or incorpators of close corporations)-extended by case law to embody "insiders", presumably controlling persons and management. Applying this rationality to limited partnerships and tax shelters, the very nature of their legal structure manifestly precludes this type of investor from meeting those qualifications.

Proponents attempt to establish an exemption on the basis that the investors are "sophisticated" or that the investment is "suitable" for such persons. These are standards to be considered with respect to registered distributions-not limited to exempt offerings-and do not in and of themselves substantiate a claim for exemption.

They are not alluded to in the statute, rule, or philosophy of the provisions referred to hereinabove.

An essential factor is the offerees' pre-existing personal or business relationship with the offeror, and a reasonable presumption of the capacity to protect their own interests.

There is also a question of integration, where a series of alledgedly"private placements" is conducted over a period of time, packaged by the same, or an affiliated sponsor, and the cumulative distribution exceeds even the allowable numbers test or dollar limitation of such a standard, when taken in the aggregate. There is further need to resolve the applicability of the licensing requirements for a general partner marketing these interests-in most cases, a real estate broker or developer. The pertinent statutory language is that a securities "broker-dealer means any person engaged in the business of effecting transactions in securities....." Counsel have argued that if such activity is merely "incidental" to the operation of a real estate agency, and not in the regular course of its business, it does not come within the purview of the definition. The Division is unable to find a distinction or implication in support of that proposition, particularly when a substantial front-end syndication or management fee is involved.

Consideration is being given to a proposed statutory amendment to provide a more definitive and objective standard for qualifying an exemption for a non-public offering substantially in the following language:

> 125-1-13(2)(j) Any transaction not involving any public offering" means any offering extended to no more than ten (10) persons, which will result in actual purchases by not more than five (5) persons, and involving not in excess of fifty thousand ($50,000) total offering amount; and where the seller reasonably believes that the securities purchased are taken for investment and not for the purpose of redistribution; and where each offeree, by reason of his knowledge about the affairs of the issuer or otherwise, or a pre-existing personal, financial or business relationship with the offerors or where such offoree reasonably can be presumed to have the capacity to protect his own interests and does not require the information which would be set forth in a prospectus or offering circular in order to make a reasonably informed judgement with respect to such investment; no general advertising for general circulation or public solicitation is to be used, and no commission or other remuneration is paid or given directly or indirectly (other than to a registered broker-dealer) for soliciting any offeree or prospective purchaser; provided that notification of claim for exemption as to any security or transaction may be filed with the commissioner, in the form and content prescribed, who may waive or modify, by rule or order, any of the foregoing conditions or qualifications, and extend the number of offerees, purchasers, or offering amount permitted hereunder. The filing fee for such notification or request for exemption shall be twenty five ($25) dollars.

This Order is entered pursuant to the authority of 125-1-18(1) and 125-1-24(5) CRS 1963 and deemed necessary and appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the Act. Interested persons may submit written data, views, or argument regarding such interpretation and opinion.

DIVISION OF SECURITIES

By _____

STANLEY R. HAYS
Securities Commissioner

PROPOSED AMENDMENT TO APPRAISERS LICENSING BILL

The requirements of section 50 of this chapter do not apply to:

(1) a licensed real estate broker or a licensed real estate salesman is exempt from the provisions of this chapter if he appraises real estate in the ordinary course of his real estate brokerage business except when a separate fee is paid for it;

(2) the commission may grant to licensed real estate brokers and officers of state and federally regulated banks and financial institutions an exemption, which must be applied for and renewed annually, from the provisions of this act to appraise residential properties up to and including four units and vacant land under conditions promulgated by the commission when there is no licensed appraiser maintaining an office within a hundred mile radius of the property appraised.

(3) a real estate appraiser trainee employed by a licensed real estate appraiser.

A BILL FOR LICENSING REAL ESTATE APPRAISERS
(as prepared by Alaska Chapter #158 of the Society
of Real Estate Appraisers and the Alaska Sub-Chapter
of the American Institute of Real Estate Appraisers)

NOTE: The SREA does not concur in the underlined portion.

For an act entitled: "An Act Providing for the Licensing of Real Estate Appraisers."

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

*Section 1. AS 08 is amended by adding a new chapter to read:

CHAPTER 89. REAL ESTATE APPRAISERS

Sec. 08.89.010. CREATION AND MEMBERSHIP OF COMMISSION.

(a) There is created the Real Estate Appraisal Commission consisting of five members appointed by the governor. The members shall be qualified, licensed real estate appraisers who have engaged in the general practice of real estate appraising in the state for not less than five years and who are currently engaged in the general practice of real estate appraising in the state and who are professional designated members of the American Institute of Real Estate Appraisers or the Society of Real Estate Appraisers. However, the members of the first commission are not required to be licensed for the first year of their tenure.

(b) A member of the commission is appointed for a term of four years and until his successor is appointed and qualified, except that the initial terms of members shall be as follows: one member for one year, one member for two years, one member for three years and two members for four years. Members serve at the pleasure of the governor. The governor shall fill a vacancy by appointment for the unexpired term.

(c) Members of the commission shall elect a chairman and a vice chairman.

(d) A majority of the members of the commission constitute a quorum to do business, but the affirmative vote of three members is required to revoke, suspend or deny a license.

Sec. 08.89.020. POWERS AND DUTIES. The commission shall

(1) meet at least once annually and more often on the call of the chairman or if the chairman is requested to do so by two or more members;

(2) receive applications for and issue licenses to real estate appraisers and prepare and grade the examinations provided for in this act,

HB

306

HB 306

Tape #
23

Date
4/3

To Commerce
Committee —
Your copy —

Yours &c
Emily

"An Act relating to the motor fuel oil tax; and providing for an effective date."

COMMITTEE REPORT

HOUSE

3/18/75 FINANCE

Mr. Speaker: Date 4/3/75

The Committee on Commerce has had HB 306 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

MEMORANDUM State of Alaska

TO: Sterling Gallagher
Commissioner of Revenue

DATE: March 11, 1975

FILE NO: 306

TELEPHONE NO:

FROM: Frederick P. Boetsch
Deputy Commissioner
Department of Revenue

SUBJECT: Increase in the Motor Fuel Tax

A Bill has been prepared which would increase the tax on motor fuel from eight cents per gallon to ten cents per gallon. The incidence of this tax will fall upon all motor fuel users and could cause the price of gasoline to increase at least two cents per gallon.

This tax increase is necessary in order to defray costs of highway maintenance which currently are far in excess of the revenues we receive both from this tax source and the motor vehicle licensing program. Although this increase will not entirely close the gap between the revenues and highway maintenance expenditures it will bring us closer by the amount indicated below.

As a side note, I might point out that a proposal has been introduced by President Ford that would call for a shifting of highway taxes from the federal to the state level whereby each one cent increase in State Motor Fuel Tax would result in a corresponding decrease in federal fuel taxes in that state. If this legislation passes then, of course, the impact of our Bill will be zero on the cost of gasoline to the motorist. However, at this stage that is somewhat speculative.

The projected increases in revenues from this Bill between FY 76 and FY 80 are as follows:

Projected Increases in Revenues
($000 Omitted)

FY 76	FY 77	FY 78	FY 79	FY 80
4368.6	5591.7	6262.7	7023.1	7865.9

We anticipate no increase cost of administration as a result of this Bill.

FPB:lw

STATE MOTOR FUEL TAX RATES
SEPTEMBER 1974
(¢ per gallon)

STATE	GASOLINE	DIESEL	LIQUID PETROLEUM GAS
Alabama	7	8	7
Alaska	8	8	No Tax
Arizona	8	8	8
Arkansas	8.5	9.5	8.5
California	7	7	6
Colorado	7	7	7
Connecticut	10	10	10
Delaware	9	9	9
Florida	8	8	8
Georgia	7.5	7.5	7.5
Hawaii	8 to 10*	8 to 10*	8 to 10*
Idaho	8.5	8.5	8.5
Illinois	7.5	7.5	7.5
Indiana	8	8	8
Iowa	7	8	7
Kansas	7	8	5
Kentucky	9	9	9
Louisana	8	8	8
Maine	9	9	9
Maryland	9	9	9
Massachusetts	7.5	7.5	7.5
Michigan	9	9	9
Minnesota	7	7	7
Mississippi	8	10	8
Missouri	7	7	7
Montana	7	9	7
Nebraska	8.5	8.5	8.5
Nevada	6	6	6
New Hampshire	9	9	9
New Jersey	8	8	4
New Mexico	7	7	7
New York	8	10	8
North Carolina	9	9	9
North Dakota	7	7	7
Ohio	7	7	7
Oklahoma	6.58	6.58	6.58
Oregon	7	7	7
Pennsylvania	9	9	9
Rhode Island	8	8	8
South Carolina	8	8	8
South Dakota	7	7	6
Tennesee	7	8	7
Texas	5	6.5	5
Utah	7	7	7
Vermont	9	No tax	No tax
Virginia	9	9	9
Washington	9	9	9
West Virginia	8.5	8.5	8.5
Wisconsin	7	7	7
Wyoming	7	7	**
Washington D. C.	8	8	8

*Including county gasoline taxes, combined rates range from 8¢ to 10¢
**Monthly mileage fee or ton-mileage fees.

SOURCE OF STATISTICS: Prentice Hall All States Tax Service

SUMMARY OF PRECEDING TABLE OF GASOLINE TAX RATES

AS OF SEPTEMBER 1, 1974

TAX RATE PER GALLON	NO. OF STATES
5.0 ¢	1
6.0 ¢	1
6.5S ¢	1
7.0 ¢	17
7.5 ¢	3
8.0 ¢	11
8.5 ¢	4
9.0 ¢	11
10.0 ¢	2
	51

GENERAL INFORMATION

23 States have lower motor fuel tax rates than does Alaska
10 States have the same motor fuel tax rate as does Alaska
17 States have higher motor fuel tax rates than does Alaska

02-001B (REV. 06-73)

306

MEMORANDUM State of Alaska

TO: Sterling Gallagher
Commissioner of Revenue

DATE: March 11, 1975

FILE NO:

TELEPHONE NO:

FROM: Frederick P. Boetsch
Deputy Commissioner
Department of Revenue

SUBJECT: Increase in the Motor Fuel Tax

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FPB:lw

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SEPTEMBER 1974
(¢ per gallon)

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Arkansas	8.5	9.5	8.5
California	7	7	6
Colorado	7	7	7
Connecticut	10	10	10
Delaware	9	9	9
Florida	8	8	8
Georgia	7.5	7.5	7.5
Hawaii	8 to 10*	8 to 10*	8 to 10*
Idaho	8.5	8.5	8.5
Illinois	7.5	7.5	7.5
Indiana	8	8	8
Iowa	7	8	7
Kansas	7	8	5
Kentucky	9	9	9
Louisana	8	8	8
Maine	9	9	9
Maryland	9	9	9
Massachusetts	7.5	7.5	7.5
Michigan	9	9	9
Minnesota	7	7	7
Mississippi	8	10	8
Missouri	7	7	
Montana	7	9	7
Nebraska	8.5	8.5	8.5
Nevada	6	6	6
New Hampshire	9	9	9
New Jersey	8	8	4
New Mexico	7	7	7
New York	8	10	8
North Carolina	9	9	9
North Dakota	7	7	7
Ohio	7	7	7
Oklahoma	6.58	6.58	6.58
Oregon	7	7	7
Pennsylvania	9	9	9
Rhode Island	8	8	8
South Carolina	8	8	8
South Dakota	7	7	6
Tennessee	7	8	7
Texas	5	6.5	5
Utah	7	7	7
Vermont	9	No tax	No tax
Virginia	9	9	9
Washington	9	9	9
West Virginia	8.5	8.5	8.5
Wisconsin	7	7	7
Wyoming	7	7	**
Washington D. C.	8	8	8

*Including county gasoline taxes, combined rates range from 8¢ to 10¢
**Monthly mileage fee or ton-mileage fees.

SOURCE OF STATISTICS: Prentice Hall All States Tax Service

SUMMARY OF PRECEDING TABLE OF GASOLINE TAX RATES

AS OF SEPTEMBER 1, 1974

TAX RATE PER GALLON	NO. OF STATES
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8.0 ¢	11
8.5 ¢	4
9.0 ¢	11
10.0 ¢	2
	51

GENERAL INFORMATION

23 States have lower motor fuel tax rates than does Alaska
10 States have the same motor fuel tax rate as does Alaska
17 States have higher motor fuel tax rates than does Alaska

HB

307

"An Act disallowing certain credits under the Alaska net income tax; and providing for an effective date."

COMMITTEE REPORT

3/18/75 HOUSE FINANCE

Mr. Speaker: Date _____

The Committee on Commerce has had HB 307 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

HB 307

Tape #	Date
24	4/4
26	4/11

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER / POUCH S — JUNEAU 99801

April 3, 1975

The Honorable Bob Bradley
Chairman
House Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Bradley:

re House Bill No. 307

House Bill No. 307, an Act disallowing certain credits under the Alaska net income tax was introduced on March 18, 1975 and was referred to the House Commerce and Finance Committees.

For the consideration of the House Commerce Committee, I am enclosing a copy of a memorandum dated April 2, 1975 from Frederick P. Boetsch, Deputy Commissioner of the Department of Revenue concerning the needs for the proposed remedial legislation.

If you have any questions on the material submitted, please call the writer at 465-2397 and I will contact Mr. Boetsch for further material or testimony.

Very truly yours,

R. D. Stevenson
Special Assistant

RDS:rl

cc The Honorable Hugh Malone
Chairman, House Finance Committee

Frederick P. Boetsch
Deputy Commissioner
Department of Revenue

02 0018

STATE
of ALASKA

MEMORANDUM

TO: R. D. Stevenson
Special Assistant

DATE : April 2, 1975

FROM: Frederick P. Boetsch, C.P.A.
Deputy Commissioner, Taxation

SUBJECT: House Bill 307

House Bill 307 is a housekeeping measure designed to eliminate from the Alaska Net Income Tax Act those references to credits provided at the Federal level through the Internal Revenue Code which do not have any applicability at State level or which duplicate other provisions at the State level.

The first credit eliminated is a credit on interest earned on certain U. S. Government obligations. This credit is provided by the Federal government since the Federal Government does tax interest earned on its own securities. The State, however, is prohibited by Federal law from taxing that interest, hence it does not make sense to allow a credit in our statute.

The second credit eliminated is a credit allowed by the Federal government for Federal taxes paid on gasoline which is then used for off-highway purposes. For the sake of administrative convenience the Federal system allows a claim for such refund to be made on the income tax return and the credit applied against income tax liability. Obviously, the State is not interested in refunding Federal gasoline taxes. We have a different procedure by which we refund State gasoline taxes paid for gasoline which is used for off-highway purposes. This provision would eliminate an unnecessary, irrelevant and possibly costly provision in the Federal code which is presently adopted by Alaska through our piggy-back mechanism.

The credit for political contributions allowed by the Federal system in Internal Revenue Code Section 41 is a duplication of the full $50 credit against Alaska taxes provided by AS 43.20.010 (c) (10). The elimination of this credit is also included in House Bill 212. Since these bills were drafted independently, however, it was included in this miscellaneous clean-up bill as it obviously is a duplication and does not make sense when applied at the State level.

We do not have any estimates on the effect of these bills on the State Treasury since the information is not included in our data base. We are developing statistics on the political campaign contributions credit as allowed under AS 43.20.010 (c) (10), but will not have that information available until later this year since this is the first year in which the credit applies. The Treasury effect of this provision would be a $4.00 for every $50.00 contribution.

There are no administrative problems connected with this bill.

FPB:ch

HB
308

NB 308

Tape #	Date
23	4/3
30	4/17

"An Act relating to tobacco taxation; and providing for an effective date."

3/13/75

COMMITTEE REPORT

FINANCE

HOUSE

Mr. Speaker: Date _____

The Committee on COMMERCE has had HB 304 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR 6304 AND THAT CS FOR 6304 DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

[illegible]		
[illegible]		

Members NOT concurring in the Majority report:

[illegible] recommends: DO PC

[illegible] recommends:

_____ recommends:

_____ re ommends:

_____ recommends:

[illegible] Chairman

02-001B (REV. 08-73)

MEMORANDUM State of Alaska

TO: Sterling Gallagher
Commissioner of Revenue

DATE: March 11, 1975

FILE NO: 30 E

TELEPHONE NO:

FROM: Frederick P. Boetsch
Deputy Commissioner
Department of Revenue

SUBJECT: Proposed Increase in the Cigarette Tax

A bill has been proposed which would increase the cigarette tax from four mils to six mils on each cigarette. It also levies a tobacco product tax of 35% of the wholesale price of tobacco products. The incidence of this tax will fall upon the consumer of tobacco products. The tax will increase by about four cents per pack of cigarettes. While we are not certain how much this will translate in terms of the retail price of cigarettes we can assume that it will be at least five cents per pack. In the past we note that cigarette companies have increased the price of cigarettes merely upon the introduction of a tax increase bill. This tax has not been raised for several years and at the present time the state is well below the National Average 12¢ per package.

This tax will bring us in line with that National Average.

In addition, this bill provides a mechanism whereby the dedicated portion of the tax can be distributed to school districts as a part of the total school construction costs. At the present time the taxes collected under that provision of our statute are used in computing the 50% sharing. Under this proposal, that money will be shared in addition to the 50%.

The increased revenues anticipated as a result of this bill for FY 76 - 80 are as follows:

Projected Increases in Revenues
($000 Omitted)

FY 76	FY 77	FY 78	FY 79	FY 80
2340.3	2621.7	2936.4	3288.6	3683.5

We anticipate no increase in administrative costs as a result of this bill.

FPB:lw

STATE CIGARETTE TAX RATES - JULY 1, 1974

STATE	¢ PER PACK
Alabama	12.0 ¢
Alaska	8.0 ¢
Arizona	13.0 ¢
Arkansas	17.75¢
California	10.0 ¢
Colorado	10.0 ¢
Connecticut	21.0 ¢
Delaware	14.0 ¢
District of Columbia	6.0 ¢
Florida	17.0 ¢
Georgia	12.0 ¢
Hawaii	9.0 ¢
Idaho	9.1 ¢
Illinois	12.0 ¢
Indiana	6.0 ¢
Iowa	13.0 ¢
Kansas	11.0 ¢
Kentucky	3.0 ¢
Louisiana	11.0 ¢
Maine	16.0 ¢
Maryland	6.0 ¢
Massachusetts	16.0 ¢
Michigan	11.0 ¢
Minnesota	18.0 ¢
Mississippi	9.0 ¢
Missouri	9.0 ¢
Montana	12.0 ¢
Nebraska	13.0 ¢
Nevada	10.0 ¢
New Hampshire	11.0 ¢
New Jersey	19.0 ¢
New Mexico	12.0 ¢
New York	15.0 ¢
North Carolina	2.0 ¢
North Dakota	11.0 ¢
Ohio	15.0 ¢
Oklahoma	13.0 ¢
Oregon	9.0 ¢
Pennsylvania	18.0 ¢
Rhode Island	13.0 ¢
South Carolina	6.0 ¢
South Dakota	12.0 ¢
Tennessee	13.0 ¢
Texas	18.5 ¢
Utah	8.0 ¢
Vermont	12.0 ¢
Virginia	2.5 ¢
Washington	16.0 ¢
West Virginia	12.0 ¢
Wisconsin	16.0 ¢
Wyoming	8.0 ¢

SUMMARY OF PRECEDING TABLE OF CIGARETTE TAX RATES, ETC.

CIGARETTE TAXES BY RATES -- JULY 1, 1974

TAX RATES	No. OF STATES
2.0 ¢	1
2.5 ¢	1
3.0 ¢	1
6.0 ¢	4
8.0 ¢	3 (including Alaska)
9.0 ¢	2
9.1 ¢	1
10.0 ¢	3
11.0 ¢	5
12.0 ¢	9
13.0 ¢	6
14.0 ¢	1
15.0 ¢	2
16.0 ¢	4
17.0 ¢	1
17.75¢	1
18.0 ¢	2
18.5 ¢	1
19.0 ¢	1
21.0 ¢	2
	51

GENERAL INFORMATION

7 States have lower cigarette tax rates than does Alaska
3 States have the same cigarette tax rate as does Alaska
41 States have higher cigarette tax rates than does Alaska
22 States have a tax on tobacco products (cigars, etc.)
29 States including Alaska do not have a tax on tobacco products (cigars, etc.)

SOURCE OF STATISTICS

Commerce Clearing House Tax Service

STATE CIGARETTE TAX RATES & TAXATION OF TOBACCO PRODUCTS AND DISCOUNTS ALLOWED WHOLESALERS FOR COLLECTION OR AFFIXING INDICIA AS OF JULY 1, 1974

STATE	CIGARETTE TAX PER PACK OF 20	DISCOUNT RATE FOR WHOLESALERS	MONETARY DISCOUNT ON CASE 600 PACKS	TOBACCO PRODUCTS TAX ON CIGARS, etc.
Alabama	12 ¢	7.5 %	$ 5.40	Yes
Alaska	8 ¢	1.0 %	0.48	No
Arizona	13 ¢	2.0 %	3.12 - 1.56	Yes
Arkansas	17.75 ¢	3.8 %	2.907- 4.047	Yes
California	10 ¢	0.85%	0.51	No
Colorado	10 ¢	4.0 %	2.40	No
Connecticut	21 ¢	1.0 %	1.26	No
Delaware	14 ¢	3.5-3/10 of 1¢ pk	1.80 - 2.31	Yes
Dist. of Columbia	6 ¢	6.0 %	2.16	No
Florida	17 ¢	2.0- 2.9 %	1.80 - 2.61	No
Georgia	12 ¢	3.0 %	1.44 - 2.16	Yes
Hawaii	40%*	-0-	-0-	Yes
Idaho	9.1 ¢	5.0 %	2.73	Yes
Illinois	12 ¢	0.67-1.67%	0.48 - 1.20	No
Indiana	6 ¢	4.0 %	1.44	No
Iowa	13 ¢	3.0 -3.50%	2.10 - 2.34	Yes
Kansas	11 ¢	3.25-3.75%	2.145- 2.475	Yes
Ketucky	3 ¢	6.0 %	1.08	No
Louisana	11 ¢	6.0 %	3.96	Yes
Maine	16 ¢	2.5 %	2.40	No
Maryland	6 ¢	5.0 %	1.80	No
Massachusetts	16 ¢	1.67%	1.60	No
Michigan	11 ¢	1.0 %	0.66	No
Minnesota	18 ¢	1.5- 2.5 %	1.62 - 2.70	Yes
Mississippi	11 ¢	8.0	5.28	Yes
Missouri	9 ¢	2.0	1.08	No
Montana	12 ¢	8.0 %**	4.32	Yes
Nebraska	13 ¢	5.0	3.90	No
Nevada	10 ¢	4.0	2.40	No
New Hampshire	11 ¢	3.5 %	2.31	Yes
New Jersey	19 ¢	1.46%	1.66	No
New Mexico	12 ¢	2.0- 4.0 %	1.44 - 2.88	No
New York	15 ¢	0.98-1.16%	0.882- 1.044	No
North Carolina	2 ¢	7/24¢ a stamp	1.75	No
North Dakota	11 ¢	3.0 %	1.98	Yes
Ohio	15 ¢	3.0- 3.11%	1.80 - 2.80	No
Oklahoma	13 ¢	4.0 %	3.12	Yes
Oregon	9 ¢	1.67 mills (pack)	1.00	No
Pennsylvania	18 ¢	3.0 %	3.24	No
Rhode Island	13 ¢	2.0 %	1.56	No
South Carolina	6 ¢	5.0 %	1.50	Yes
South Dakota	12 ¢	3.5 %	2.52	No
Tennessee	13 ¢	1.75-2.75%	1.365- 2.145	Yes
Texas	18.5 ¢	2.75%	5.0525	Yes
Utah	8 ¢	4.0 %	1.92	Yes
Vermont	12 ¢	3.2	2.304	Yes
Virginia	2.5 ¢	5.0 %	.75	No
Washington	16 ¢	1.682 on 11¢	1.11	Yes
West Virginia	12 ¢	4.0 %	2.88	No
Wisconsin	16 ¢	2.1 %	2.016	No
Wyoming	8 ¢	6.0 %	2.88	No

* The Hawaii rate is a percentage of wholesale price (equates to 12¢ per pack).

**Montana applicable to first 9¢ only.

HB

314

NB 314

Tape # 32

Date 3/21

"An Act relating to outdoor advertising control; and providing for an effective date."

COMMITTEE REPORT

3/19/75

HOUSE

JUDICIARY
FINANCE

Mr. Speaker: Date _____

The Committee on Commerce has had HB 314

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

AMENDMENT

OFFERED IN THE HOUSE: BY: Commerce Committee

To: _____ HOUSE BILL No. 319

SENATE BILL No. _____

PAGE: 1, 2 LINE: 19, 4

Page 1, line 19

Delete the word "[illegible]" and insert the word "or"

between the word "inter-state" and "primary".

Page 2, line 4

After the word "the" insert the word "primary" and delete

the

the word "secondary"

File Wdth 314

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K — STATE CAPITOL
JUNEAU 99801

March 28, 1975

M E M O R A N D U M

TO: The Honorable Bob Bradley
Chairman, Commerce Committee
House of Representatives
Alaska State Legislature

FROM: Arthur H. Peterson AHP
Assistant Attorney General

RE: HB 314 (outdoor advertising)

When this bill is taken up by your committee for consideration, we would appreciate your correcting the following two errors which appear in it:

1. On page 1, line 19, there should be a comma after the word "interstate". Three types of highway are involved, and the word "interstate" is not merely a modifier of "primary" and "secondary". This is consistent with the other provisions in AS 19.25.080 -- 19.25.180.

2. On page 2, line 4, after the word "interstate", "<u>, primary</u>" should be inserted. Again, the relevant state and federal laws cover all three types of highway -- interstate, primary and secondary.

If your committee should wish to hear testimony from this office on this bill, we would be happy to have someone appear.

AHP:md

File HB 314

APR 2 1975

I. REQUEST
Bill No. HB 314
Title: An act relating to Outdoor Advertising Control
Requested by: Rules Committee, request of Governor Date: 3/19/75
Return Date Requested:
Agency: Highways Program:

II. FISCAL DETAIL
Budget Request Unit(s) Affected:
A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 75	FY 76	FY 77	FY 78	FY 79	FY 80
100	PERSONAL SERVICES	7	30	35	35	6	6
200	TRAVEL	2	5	10	10	2	2
300	CONTRACTUAL			5	5		
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES	1	5	20	20		
700	GRANTS, CLAIMS, ETC.						
	TOTAL	10	40	70	70	8	8

B. FUNDING: (Thousands of dollars)

GENERAL FUND	2.5	10	17.5	17.5	8	8
FEDERAL FUNDS	7.5	30	52.5	52.5	0	0
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	0 / 0	0 / 0	3 / 0	3 / 0	0 / 0	0 / 0
MAN MONTHS (P./T.)	4 / 0	15 / 0	20 / 0	20 / 0	4 / 0	4 / 0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. ATTACHMENTS

DATE: 4/2/75 PREPARED BY: Right-of-Way Division

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF HIGHWAYS

OFFICE OF THE COMMISSIONER

P.O. BOX 1467 – JUNEAU 99801
(907) 364-2121

April 17, 1975

Re: 00-3077

Honorable Bob Bradley
Chairman, House Commerce Committee
Alaska State House of Representatives
State Capitol Building
Juneau, Alaska 99811

Dear Mr. Bradley:

Per the request of Mr. Kim Hutchinson I am enclosing a federal-aid highway systems map for the Anchorage area. The roads identified in red are on the primary road system; the roads identified in green are on the secondary system.

I also discussed with Mr. Hutchinson modifications to the language of H.B. 314, an act relating to outdoor advertising control. The suggested amendments were:

Amend. #1

1. Page 1, line 19 - insert the word or between the words interstate and primary; delete [or secondary].

2. Page 2, line 4 - insert the word primary after the word or and delete the work secondary.

The importance of this bill upon transportation development within this State must be emphasized. If this proposed legislation does not pass, the State will have 10% of its federal funds withdrawn. This will be approximately $10-$12 million reduction in funding for all road and highway programs.

Sincerely,

Walter B. Parker
Commissioner of Highways

Dennis M. Dooley
Special Assistant to the
Commissioner of Highways

Enclosure

DMD/mth

The Legislature of the State of Alaska
FISCAL NOTE

First Session - Ninth Legislature

APR 3 1975
APR 2 1975

I. REQUEST
Bill No. HB 314
Title: An act relating to Outdoor Advertising Control
Requested by: Rules Committee, request of Governor Date: 3/19/75
Return Date Requested:
Agency: Highways Program:

II. FISCAL DETAIL
Budget Request Unit(s) Affected:
A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 75	FY 76	FY 77	FY 78	FY 79	FY 80
100	PERSONAL SERVICES	7	30	35	35	6	6
200	TRAVEL	2	5	10	10	2	2
300	CONTRACTUAL			5	5		
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES	1	5	20	20		
700	GRANTS, CLAIMS, ETC.						
	TOTAL	10	40	70	70	8	8

B. FUNDING: (Thousands of dollars)

GENERAL FUND	2.5	10	17.5	17.5	8	8
FEDERAL FUNDS	7.5	30	52.5	52.5	0	0
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	0 / 0	0 / 0	3 / 0	3 / 0	0 / 0	0 / 0
MAN MONTHS (P./T.)	4 / 0	15 / 0	20 / 0	20 / 0	4 / 0	4 / 0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. ATTACHMENTS

V. DATE: 4/2/75 PREPARED BY: Right-of-Way Division

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

The Legislature of the State of Alaska
FISCAL NOTE

First Session - Ninth Legislature

APR 3 1975
APR 2 1975

I. REQUEST
Bill No. HB 314
Title: An act relating to Outdoor Advertising Control
Requested by: Rules Committee, request of Governor Date: 3/19/75
Return Date Requested:
Agency: Highways Program:

II. FISCAL DETAIL
Budget Request Unit(s) Affected:
A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 75	FY 76	FY 77	FY 78	FY 79	FY 80
100	PERSONAL SERVICES	7	30	35	35	6	6
200	TRAVEL	2	5	10	10	2	2
300	CONTRACTUAL			5	5		
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES	1	5	20	20		
700	GRANTS, CLAIMS, ETC.						
	TOTAL	10	40	70	70	8	8

B. FUNDING: (Thousands of dollars)

GENERAL FUND	2.5	10	17.5	17.5	8	8
FEDERAL FUNDS	7.5	30	52.5	52.5	0	0
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	0 / 0	0 / 0	3 / 0	3 / 0	0 / 0	0 / 0
MAN MONTHS (P./T.)	4 / 0	15 / 0	20 / 0	20 / 0	4 / 0	4 / 0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. ATTACHMENTS

V. DATE: 4/2/75 PREPARED BY: Right-of-Way Division

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF HIGHWAYS

OFFICE OF THE COMMISSIONER

P. O. BOX 1467 – JUNEAU 99801
(907) 364-2121

April 17, 1975

Re: 00-3077
House Bill 314

Honorable Bob Bradley
Alaska State Representative
State Capitol Building
Juneau, Alaska 99811

Dear Mr. Bradley:

In support of our request for your favorable consideration of the captioned legislation, we are attaching a copy of the Federal Highway Amendments of 1974 and a copy of a letter from the Assistant Chief Counsel for Right-of-Way and Environmental Law, Federal Highway Administration, Department of Transportation.

The purpose of the proposed amendment is to bring Alaska into compliance with federal law. Failure to do so will subject the state to loss of ten percent of the entire federal participation in Alaska's highway program (approximately $10-$12 million). It should be noted that the off-system roads program, by which the State has the most opportunity to meet local requirements, would be affected by over $1 million in lost funds. The State can ill afford any further cut back of transportation facilities.

Since the federal law provides that each state must be in compliance by July 1, 1975 or the end of the present legislative session, it is crucial that action be taken at this time.

Therefore, we again respectfully request your assistance in passing this much needed legislation.

Sincerely yours,

W. B. Parker by HNW

Walter B. Parker
Commissioner

Attachment

WBP/HNW:jo

HB

315

HB 315

Tape #	Date
21	4/2
23	4/3

"An Act relating to membership and jurisdiction of the Alaska Public Utilities Commission."

COMMITTEE REPORT

3/20/75 HOUSE FINANCE

Mr. Speaker: Date 4/2/75

The Committee on Commerce has had HB 315 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR 315 AND THAT CS FOR 315 DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

F. J. Scalley

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

F. J. Scalley Chairman

STATE OF ALASKA

Inter-Department Route Slip

TO:
MAIL STATION NUMBER 3100

DEPARTMENT Legislature

ATTENTION Rep. Bob Bradley

☐ Approval	☐ Note & Return
☐ Signature	☐ Initial & Return
☐ Comment	☐ Return As Requested
☐ Contact Me	☐ Return For Approval
☐ Prepare Reply	☐ Necessary Action
☐ For Your File	☑ Your Information

Remarks:

File

FROM:
MAIL STATION NUMBER 0800

DEPARTMENT Commerce

BY B. Marcus DATE 4-14

02-002 (REV.10/73)

The Legislature of the State of Alaska
FISCAL NOTE
First Session - ~~Eighth~~ Ninth Legislature

I. REQUEST

Bill Identification: House Bill No. 315
Title: Relating to membership and jurisdiction of the Alaska Public Utilities Commiss
Requested by: House Finance Committee Date: April 9, 1975
Return Date Requested: Not specified.
Agency: Department of Commerce Program: Public Protection

II. FISCAL DETAIL

Budget Request Unit(s) Affected: Alaska Public Utilities Commission

A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 73	FY 74	FY 75	FY 76	FY 77	FY 78
100	PERSONAL SERVICES				106,636		
200	TRAVEL				10,000		
300	CONTRACTUAL				67,235		
400	COMMODITIES				1,600		
500	EQUIPMENT				11,259		
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL				196,730		

B. FUNDING: (Thousands of dollars)

GENERAL FUND				196,730		
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	/	/	/	4 /	/	/
MAN MONTHS (P./T.)	/	/	/	48 /	/	/

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

FISCAL BREAKDOWN BY ACCOUNT
RE HOUSE BILL NO. 315 - PREPARED 4-11-75

ACCOUNT 100 - PERSONAL SERVICES = $106,636

Commissioner

Salary	$33,500	
18% Benefits	6,030	
	39,530 x 2 positions = $79,060	

Secretary

Salary	11,688	
18% Benefits	2,100	
	13,788 x 2 positions =	27,576
		$106,636

ACCOUNT 200 - TRAVEL = $10,000

Field travel (hearings), administrative, and conferences and conventions - $5,000 x 2 positions	10,000

ACCOUNT 300 - CONTRACTUAL = $67,235

310	Communications			
	Telephone for 4 new positions	$960		
	Toll calls	600		
	Postage	600		
				2,160
330	Office Space			
	Present Office Space	5,200 sq. ft.		
	Commissioner 315 sq. ft. x 2 =	630 " "		
	Secretary 60 sq. ft. x 2 =	120 " "		
	Total Requirement	5,950 " "	@ $1.10 x 12 mos. = $78,540	
	Present Cost - $2,062.50 per mo. x 12 mos.		24,750	
				53,790
	Parking space, reserved, @ $20.00 per mo. x 8 positions x 12 mos.			1,920
340	Repairs, Services and Alterations			
	Telephone Costs, non-recurring (installation)		$915	915
350	Transportation of Things			
	Move to New Offices (Drayage)	$4,000		
	Move for 2 new hires @ $2,000	4,000		8,000
380	Professional Fees and Services			
	Contract to remove and reinstall hearing room recording system		$450	450

ACCOUNT 400 - COMMODITIES = $1,600

480	Office Supplies and Stationery for 4 new positions @ $400	1,600

FISCAL BREAKDOWN BY ACCOUNT
RE HOUSE BILL NO. 315 - PREPARED 4-11-75

ACCOUNT 500 - EQUIPMENT = $11,259

520 Furniture and Equipment

Commissioner			
Desk, Executive	$251.36		
Chair, Executive	134.25		
Bookcase	73.11		
2 Side Chairs with arms	109.40		
Office Table	132.78		
File Cabinet	149.88		
Dictating Machine	575.00		
		$1,425.78 x 2 positions	$ 2,852
Secretary			
Desk, Secretarial	258.00		
Chair, Secretarial	72.46		
Side Chair without arms	29.75		
Typewriter	800.00		
File Cabinet	149.88		
Transcriber	575.00		
		1,885.09 x 2 positions	3,770
6-hanger Costumer	$47.00		47
Hearing Room			
Commissioners' Bench (custom), 18 linear feet @ $100		$1,800	
Commissioner Chairs @ $160 x 2		320	
Conference type Tables (wood) @ $480 x 4		1,920	
Recording System materials (cabling)		100	
Replacement Tape Recorder		450	
			4,590
		GRAND TOTAL	$196,730

HEARING ROOM COSTS

CONCEPT: Leave existing hearing room intact at present location except for recording equipment.

JUSTIFICATION:

1. Existing hearing room tables and bench, which were custom-made, cannot be removed without substantial disassembly and reassembly costs.

2. Commissioners' bench will not accommodate two additional Commissioners and is not particularly adaptable to expansion.

3. Total hearing room facilities in the MacKay Building are not adequate to meet satisfactorily the combined requirements of the other State building occupants.

Introduced: 3/20/75
Referred: Commerce and Finance

BY BRADLEY,ANDERSON,BOWMAN, BRADNER,FREEMAN,GARDINER, MCKINNON,MILLER,PARKER,RHODE, SMITH AND SWANSON

IN THE HOUSE

HOUSF BILL NO. 315

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to membership and jurisdiction of the Alaska Public Utilities Commission."

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

* Section 1. AS 42.05.020(a) is amended to read:

(a) The Alaska Public Utilities Commission consists of <u>five</u> [THREE] members, appointed by the governor and confirmed by the legislature in joint session assembled.

* Sec. 2. AS 42.05.030(b) is amended to read:

(b) A vacancy arising in the office of commissioner shall be filled by appointment by the governor, <u>from a list of four candidates, two submitted by the speaker of the house and two by the president of</u> ~~the senate,~~ and confirmed by the legislature in joint session and an appointee selected to fill a vacancy shall hold office for the balance of the full term for which his predecessor on the commission was appointed.

* Sec. 3. AS 42.05.040 is amended to read:

Sec. 42.05.040. QUALIFICATIONS OF MEMBERS. Members shall be qualified as follows: one member shall be a graduate of an accredited school of law; one member shall be a graduate of an accredited university with a major in engineering; one member shall be a graduate of an accredited university with a major in finance, accounting, or business administration<u>; and two members shall be consumers</u>.

* Sec. 4. AS 42.05.071 is amended to read:

Sec. 42.05.071. QUORUM <u>Three</u> [TWO] members of the commission

constitute a quorum for the transaction of business, for the performance of a duty, or for the exercise of a power of the commission.

* Sec. 5. The two consumer seats on the commission created by this Act shall be treated as vacancies and filled for a full term in the manner prescribed in AS 42.05.030(b).

* Sec. 6. AS 42.05.141 is amended to read:

Sec. 42.05.141. GENERAL POWERS AND DUTIES OF THE COMMISSION. The Alaska Public Utilities Commission may

(1) regulate every public utility engaged or proposing to engage in such a business inside the state, [EXCEPT TO THE EXTENT EXEMPTED BY SEC. 711 OF THIS CHAPTER] and the powers of the commission shall be liberally construed to accomplish its stated purposes;

leave in

(2) investigate, upon complaint or upon its own motion, the rates, classifications, rules, regulations, practices, services and facilities of a public utility and hold hearings on them;

(3) make or require just, fair and reasonable rates, classifications, regulations, practices, services and facilities for a public utility;

(4) prescribe the system of accounts and regulate the service and safety of operations of a public utility;

(5) require a public utility to file reports and other information and data.

* Sec. 7. AS 42.05.771 is repealed.

HB
316

"An Act relating to deposits required by utilities."

COMMITTEE REPORT

3/20/75 HOUSE

Mr. Speaker: Date 2/25/76

The Committee on COMMERCE has had HB 316

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

(X) recommends it BE REPLACED WITH CS FOR HB 316 AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends: DO NOT PASS

Rudd recommends: no rec

_____ recommends:

_____ Chairman

STATE OF ALASKA
JAY S. HAMMOND, GOVERNOR
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
ALASKA PUBLIC UTILITIES COMMISSION
1100 MACKAY BUILDING
338 DENALI STREET – ANCHORAGE 99501

March 11, 1976

The Honorable Bob Bradley
Representative
Pouch V
Juneau, Alaska 99811

Dear Representative Bradley:

Re Your Letter Dated February 18, 1976

This letter is in response to your request for an explanation of how deposits paid by utility customers are taken into account in the rate-making process.

In computing the rate base of a utility, i.e., the investment upon which a utility is allowed to earn a return, customers' deposits are deducted so as to preclude the utility from earning a return on interest-free funds provided by the customers. If the utility pays its customers interest on their deposits, then the deposits are not deducted in computing the rate base.

Any interest earned by the utility through investment of customers' deposits is considered as income for rate-making purpose; i.e., it reduces the amount necessary to be earned by the utility through operating revenues, thereby indirectly reducing the monthly rates to be paid by the utility customers.

I regret the delay in replying but the Commission has been "on the road" conducting hearings out of town during this month.

If you would like additional details or have any further questions, please let me know.

Very truly yours,

ALASKA PUBLIC UTILITIES COMMISSION

Gordon J. Zerbetz
Chairman

KENAI UTILITY SERVICE CORPORATION

A BLUE FLAME COMPANY

BENCO BUILDING P.O. BOX 614

KENAI, ALASKA 99611

(907) 283-7932

April 4, 1975

Dear Legislator:

As a tax payer, public utility consumer and public utility operator, I wish to protest in the strongest terms against the provision of H.B. 316 relating to interest payments on customer deposits held by utilities. Seldom, if ever, have I reviewed a bill so poorly thought out.

The obvious effect of H.B. 316 would be to impose unreasonable administrative costs upon the utilities in order for them to comply with the quarterly interest payment provision. By way of example, our normal residential customer deposit is $50.00. If the interest to be paid on this amount is computed at 8% per annum, on a quarterly basis, each interest payment is then only $1.00. Working at a rather rapid rate of six payment computations (including ledger posting) per hour a bookkeeper earning a conservative $6.00 per hour will expend at least $1.15 (including personnel benefits) in labor costs to make the payment. If the payment is to be made by check (the bill says paid) additional costs of approximately $.12 for a voucher check, $.02 for stationery and $.08 for postage will be incurred. The total cost to make this magnificent $1.00 payment then becomes about $1.37. Of course if the interest rate is lower than 8%, or the deposit is less than $50.00, the same $1.37 must be spent to make a payment measured in pennies.

The primary justification for utility deposits is to protect the utility against bad debts. The consumers are thereby protected against rate schedules designed to accommodate significant amounts of uncollectible accounts. Under H.B. 316 the utility has two choices:

1. Refund all deposits (including those on questionable accounts) after one year, thus exposing all of its customers to the situation described.

2. Pay the interest as required and formulate future rate structures to support the added and unnecessary administrative costs of doing so.

H.B. 316 all APPK

In 1974 the Alaska Public Utilities Commission ordered that utility companies refund all deposits of two years standing to those consumers with good credit history. Such refunds will automatically continue to new utility customers as they qualify. This is a reasonable and workable arrangement. It was formulated after a considerable amount of input from the public and the utilities, and at considerable expense to all concerned including the State of Alaska. The rule was enacted by a panel of experienced commissioners possessing a great deal of insight into all facets of the subject. It should be left as is.

Very truly yours,

KENAI UTILITY SERVICE CORPORATION

Oscar L. Thomas

Oscar L. Thomas, Vice-President

OLT:ilw

LAW OFFICES OF
FAULKNER, BANFIELD, DOOGAN & HOLMES
SUITE 201, 311 FRANKLIN STREET
JUNEAU, ALASKA 99801
TEL. 586-2210
AREA CODE 907

HERBERT L. FAULKNER (1882-1972)
NORMAN C. BANFIELD
FRANK M. DOOGAN
MICHAEL M. HOLMES
RANDALL J. WEDDLE
WILLIAM B. ROZELL
JAN VAN DORT
LAWRENCE T. FEENEY
CHARLES N. DRENNAN

March 27, 1975

The Honorable Bob Bradley
Chairman, Commerce Committee
Alaska House of Representatives
Pouch V, Capitol Building
Juneau, Alaska 99811

Re: H.B. No. 316, Relating to Deposits Required by Utilities

Dear Chairman Bradley:

I represent eight electric and telephone public utilities in the State of Alaska, some of which have very small operations such as at Craig, Tok, Yakutat and Pelican.

Heretofore, the legislature has seen fit to allow the Alaska Public Utilities Commission to regulate the tariffs to be filed by the utilities. The Commission has a regulation on Uniform Deposit Practices which is 3 AAC 48.420, copy of which is attached. It provides that if a deposit is required by the utility it must set forth the maximum amount of the deposit which cannot exceed two months billings. It also requires that the utility will specify how long it will retain a customer's deposit and that retention is limited to two years providing that in the interim period the utility has not been forced to discontinue service because of delinquent payments and the customer has not been delinquent more than once in twelve months.

The tariffs are not uniform as to the amount of the deposit but they generally require about $20.00 or an estimated two months billings. It is hard to estimate what the average two months billing deposit is for the respective telephone, electric, water, gas and sewer utilities and the various classes of customers by each. The electric would run well over $20.00 for two months. The telephone and gas billings may run about $20.00 for two months but the water and sewer charges are generally considerably less. If we consider the average deposit to be $20.00 and the rate for advances by the 12th Federal Reserve District to be 6 per cent, the amount of interest which would be payable annually would be $1.20. This would be 30 cents per quarter year which would have to be deducted from the bills.

(1) The small amount of the interest involved, (2) the clerical work and bookkeeping necessary to charge the interest periodically on the individual deposits, which are not all the same, and (3) the fact that this expense must be absorbed by the rate payer, are reasons why the Commission has never seen fit to require the payment of interest on a deposit although some of the utilities voluntarily do so and make payments annually.

Another reason advanced for not charging interest is that many customers are delinquent in their payments and this tends to equalize the use of money of each party by the other.

I do not think the legislature should try to regulate such details. Rather it should recognize that the Commission was established to create a body with expert knowledge and experience which is better able to make regulations and to completely regulate the utilities rather than have such determinations made by the legislature and the courts.

However, if the legislature considers it advisable to regulate such details, then the utilities would much prefer a set rate of interest such as 6 per cent and have the computation made once a year or at the most, twice. No interest should be required to be paid if the customer has been delinquent during the period.

Many persons think that all customers have a deposit. That is not true. Some utilities have no deposits because of the nuisance of collecting them and refunding them. Those utilities which do require deposits under their tariffs cannot retain them more than two years unless the customer has been delinquent. Therefore, the most a customer can get on a $2.00 deposit for two years at 6 per cent is $2.40.

In regulating the rates of utilities for their various services the Commission allows a percentage of return on the rate base. The rate base is computed at book value of the plant plus working capital and inventory. If the company requires deposits the average amount of the deposits in the test year is deducted from the rate base in determining the return which is generally about 11 per cent. If the company has to pay interest on these deposits, then the Commission will not be entitled to deduct the amount of the deposits from the rate base. This will result in the customer

The Honorable Bob Bradley
Alaska Souse of Representatives
Juneau, Alaska

March 27, 1975

getting about 6 per cent on his deposit but having his rates increased by 11 per cent on an amount of rate base equal to his deposit.

Yours very truly,

N C Banfield

N. C. Banfield

NCB:db

cc: Alaska Public Utilities Commission

/ / , Reg.)

Authority: AS 42.05.141(1)
AS 42.05.151(a)
AS 42.05.361
AS 42.05.411

3 AAC 48.410. TARIFF OF ACQUIRED UTILITY. Every utility acquiring ownership or control of another utility or portion of one and filing a notice adopting the rates, rules and regulations, etc., of that utility shall, within 90 days after the filing of such adoption notice, file such rates, rules and regulations, etc. as a part of its own tariff or as a separate tariff in its own name if it plans to continue to operate in accordance with them. (Eff. / / , Reg.)

Authority: AS 42.05.141(1)
AS 42.05.151(a)
AS 42.05.361
AS 42.05.411

3 AAC 48.420. UNIFORM DEPOSIT PRACTICES. (a) When a deposit is required as a condition of receiving utility service the rule which established the deposit requirement shall also set forth the maximum amount of the deposit to be paid, which in no case shall exceed the following amount for a customer of the indicated type of utility as determined by the utility after consultation with the customer:

(1) two-months telephone billings, including toll charges as estimated by the utility;

(2) two-months electric billing based on the utility's estimate of usage;

(3) two months water charges at the flat rate, or two months of metered charges as estimated by the utility;

(4) two-months gas billings as estimated by the utility;

(5) two-months sewer service fees.

(b) The deposit rule shall clearly state the length of time the utility will retain a customer's deposit, but under no circumstances shall a utility retain a customer's deposit longer than two years, providing that in the interim period, the utility has not been forced to disconnect that customer's service for reasons of delinquency in payment of charges, and that the customer has not been delinquent in payment more than once in any 12 consecutive months. The deposit is to be returned to the customer within 25 days of discontinuance of service, except within 60 days for deposits for telephone service, after deducting monies due to the utility. (Eff. / / , Reg.)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.361

LAW OFFICES OF

ALASKA LEGAL SERVICES CORPORATION

315 FIFTH STREET, SUITE 8

JUNEAU, ALASKA 99801

TELEPHONE 586~~XXXX~~ 6425

File under HB 316

MEMORANDUM

TO: Representative Bob Bradley

FROM: Donald E. Clocksin DEC

RE: HB 316 - Utility Deposits

DATE: April 30, 1975

- -

I have received a lot of information regarding the present utility deposit practices of the Alaska Public Utilities Commission. To start with, the rules of the APUC do not require as a general practice that utilities pay interest on deposits. However the rules do require that a deposit not be retained longer than two years unless the customer is a bad risk. A copy of these regulations, appearing at 3 AAC 48.420, are attached to this memorandum.

The Alaska Gas and Service Company (also known as Anchorage Natural Gas) has a tariff with the APUC which requires that it refund commercial deposits which are held for three years or more and which requires refunding and interest on residential deposits. See the attached tariff. Despite the title of the subsection which refers to "refunds", the section on residential deposits does not appear to mandate the return of a deposit.

I am also enclosing a two-page paper entitled "Staff Opinion on Payment of Interest on Customer Deposits". I am also enclosing a memorandum from J. Lowell Jensen, Executive Director of the Alaska Public Utilities Commission relating to the interpretation of the regulation which I have referred to above.

In summary, the APUC requires that a deposit be returned within two years but does not require the payment of interest. Anchorage Natural Gas provides for the return of commercial deposits after three years and a good payment record, and also provides for payment of interest on both residential and commercial deposits. I suggest that you bill be amended to impose a mandatory requirement upon the APUC both to require that interest be paid on deposits and that those deposits be returned if there is a good credit record.

I have a whole pile of legal memoranda presented to the APUC when this issue was in front of them. If you wish any of this material or a synopsis of it, do not hesitate to ask.

DEC:mjb
Attachment

(c) Until such time as an adopted tariff is refiled in the name of the utility which adopted it, all revisions of it subsequent to adoption will bear, at the top part of each tariff sheet, the name of the utility whose tariff was adopted and, at the bottom part of the sheet after "Issued by," the name of the utility that adopted the tariff and is issuing the revisions of the tariff. A tariff adopted by one utility may not be adopted by another utility, but instead must be filed as the tariff of the filing utility without any substantive change in the rates, charges, rules and regulations of the predecessor utility. (Eff. 11/16/73, Reg. 48)

Authority: AS 42.05.141(1)
AS 42.05.151(a)
AS 42.05.361
AS 42.05.411

3 AAC 48.410. TARIFF OF ACQUIRED UTILITY. Every utility acquiring its own [illegible] control of another utility or portion of one and filing a notice adopting the rates, rules and regulations, etc., of that utility shall, within 90 days after the filing of such adoption notice, file such rates, rules and regulations, etc. as a part of its own tariff or as a separate tariff in its own name if it plans to continue to operate in accordance with them. (Eff. 11/16/73, Reg. 48)

Authority: AS 42.05.141(1)
AS 42.05.151(a)
AS 42.05.361
AS 42.05.411

3 AAC 48.420. UNIFORM DEPOSIT PRACTICES. (a) When a deposit is required as a condition of receiving utility service the rule which established the deposit requirement shall also set forth the maximum amount of the deposit to be paid, which in no case shall exceed the following amount for a customer of the indicated type of utility as determined by the utility after consultation with the customer:

(1) two-months telephone billings, including toll charges as estimated by the utility;

(2) two-months electric billing based on the utility's estimate of usage;

(3) two-months water charges at the flat rate, or two months of metered charges as estimated by the utility;

(4) two-months gas billings as estimated by the utility;

(5) two-months sewer [illegible]

(b) The deposit rule shall [illegible] length of time the utility will retain a customer's deposit, but under no circumstances shall a utility retain a customer's deposit longer than two years, providing that in the interim period, the utility has not been forced to disconnect that customer's service for reasons of delinquency in payment of charges, and that the customer has not been delinquent in payment more than once in any 12 consecutive months. The deposit is to be returned to the customer within 25 days of discontinuance of service, except within 60 days for deposits for telephone service, after deducting monies due to the utility. (Eff. 11/16/73, Reg. 48)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.361

6-25-74

Staff

Submitted by PUC Staff @ 6-25-74 Meeting

Staff Position on Payment of
Interest on Customer Deposits

When the Commission held its hearing concerning the adoption of its Rules of Practice and Procedure, Article 2, Section 3 AAC 48.420, Uniform Deposit Practices, received considerable input from those utility representatives present. Generally the utilities were opposed to a Commission Rule which would require the payment of interest on customer security deposits.

The chief reasons advanced by the utilities for not paying interest were:

1. The administrative cost would offset any gain from interest paid.

2. The deposits being subject to refund would restrict the use of which the money can be put.

The staff cannot accept either of these reasons for not paying interest on deposits. The Commission Rule would not require the utility to make periodic calculations of the interest earned and then pay the interest. Instead, the calculation would be made only once, at the time of refund, and would merely be a single additional step to the issuance of the final bill or deposit refund. The

staff is of the opinion that any additional administrative cost would be minute. The staff is aware of the Commission having received at least two requests for permission to delay making deposit refunds to eligible customers having deposit accounts more than two years old. The reason given for delaying these refunds was that the cash flow would be adversely affected. Thus, the plea that the character of the deposit money held by a utility restricts its usage is not valid, at least not in all instances. Further the staff believes that payment of interest on deposits gives the public a greater direct benefit than by giving effect to the deposits through a rate base determination.

It is the opinion of the staff that customer security deposits held by Alaska utilities constitutes a source of capital, and that it is in the public interest to require each utility to pay interest on such deposits at a rate and in a manner to be determined by the Commission.

STATE OF ALASKA

DEPARTMENT OF COMMERCE

ALASKA PUBLIC UTILITIES COMMISSION

WILLIAM A. EGAN, GOVERNOR

1100 MACKAY BUILDING
338 DENALI STREET — ANCHORAGE 99501

APR 30 REC'D

November 23, 1973

RECEIVED

NOV

To All Public Utilities and Interested Parties:

Gentlemen:

Alaska Legislature

Re Tariff Rules which became effective on November 16, 1973

It has been brought to the Commission's attention that its tariff Rule 3 AAC 48.420(b), concerning the length of time a utility may retain a customer's deposit, requires clarification.

As now written, the rule possibly could be misinterpreted as requiring a utility to enforce a harsh disconnect policy solely to protect its right to retain a customer's security deposit (even though the customer's payment record may have been so poor that it of itself normally would constitute sufficient grounds for not refunding the deposit). This is not the interpretation desired by the Commission.

The Commission intended, rather, that the rule would enable a utility to reduce its risk of loss (from a customer who had not established a good payment record) by retaining the customer's deposit beyond the two-year maximum holding period prescribed in the rule, regardless of whether or not it had been necessary for the utility to actually disconnect the customer's service for nonpayment at some time during the two-year period. Hence, if the utility determines that either one of the criteria stated in Rule 48.420(b) applies to a particular customer (i.e., that during the two-year period either he has been disconnected for non-payment or he has been late in payment more than once in any twelve consecutive months) the utility will have the option of retaining that customer's deposit longer than the two-year holding period specified in the rule. The customer will not be entitled to the refund of his deposit until such time as he has established a two-year record of good payment.

By Direction of the Commission:

ALASKA PUBLIC UTILITIES COMMISSION

J. Lowell Jensen
Executive Director

JLJ:dj

Curved AGAS tariffs

APUC Tariff No. 4 — 1st Revision — Sheet No. 5

APR 30 REC'D

Cancelling Original of 8/15/63 — Sheet No. 5

RECEIVED
MAR 30 1972
State of Alaska
Public Utilities Commission

ALASKA GAS AND SERVICE COMPANY

Section 400 - Customer-Company Relations Regarding Service — Page 5

401 Application for Service - Application for service may be made at any business office of the Company, by mail or in person.

The Company may require each prospective customer to sign an application for the service desired, and to establish his credit.

The application should show the following information:

a. Location of the premises to be served.
b. Date applicant desires service.
c. Whether or not the premises have previously been supplied.
d. Use to be made of service and description of appliances.
e. Address for billing.
f. Whether the applicant is owner, agent or tenant of the premises.
g. Rate schedule desired.
h. Such other information as the Company may reasonably require.

The application is only a request for service and does not bind the Company to serve except under reasonable conditions, nor does it bind the customer to take service for a longer period than the minimum requirements of the rate.

402 Contract for Service - A contract for service may be required by the Company, to be signed by the customer when he signs the application for a meter. Any contract differing from filed tariff rates will be subject to the prior approval of the Alaska Public Utilities Commission.

No other contract is required except:

a. Where such contract is required as set forth in the rate schedule approved by the Alaska Public Utilities Commission.

b. In case of gas main extensions or temporary service where the contract period may not exceed one (1) year.

Each contract for gas service will contain the following provisions:

"This contract shall at all times be subject to such changes or modifications by the Alaska Public Utilities Commission as said Commission may, from time to time, direct in the exercise of its jurisdiction."

403 Credit Establishment and Re-establishment - Each applicant for service will be required to establish or re-establish his credit to the satisfaction of the Company before service will be rendered.

a. Establishment of Credit

The applicant's credit will be deemed established:

Effective: APR 18 1972

Issued by: Alaska Gas and Service Company, Division of Alaska Interstate Company

By: Dale Teel — Title: President

Dale Teel

Cancelling 1 Sec 3-Revision Sheet No. ____

First Revision of 4-18-72 Sheet No. 6

ALASKA GAS AND SERVICE COMPANY

RECEIVED
JAN 24 1974
State of Alaska
Public Utilities Commission

403 Credit Establishment and Re-establishment (Continued)

(1) If he is the record owner of the property to be served by the Company or of other real estate within the limits of the Company service, which property ownership is of sufficient value, and he will satisfactorily warrant against future encumbrances or conveyances, or

(2) If he makes a cash deposit to secure the payment of any bills for service to be furnished by the Company as provided in Rule 6 Regulation No. 403 (c), or

(3) If he furnishes a bond or an undertaking satisfactory to the Company, or

(4) If the applicant has a record of prompt payment for service satisfactory to the Company for twenty-four (24) months or more for previous use, provided such service occurred within four (4) years from date of new application for service. (C)

b. Re-establishment of Credit

(1) A customer who fails to pay his bills for gas after a second notice, or after service has been discontinued for non-payment may be required to pay his bills and re-establish his credit by making a cash deposit equal to twice the estimated monthly bill for service.

(2) A customer who pays his bill with a check that is subsequently returned to us unpaid by the bank will be deemed to have never paid that bill and subject to the provisions of paragraph 403 (b)(1). The company shall charge a customer a handling fee of five dollars ($ 5.00) for each such returned check. (R)

c. Amount of Deposit

(1) The amount of the deposit required to establish the credit of an applicant for gas service for residence or domestic use shall not exceed the estimated bill for two (2) months' consumption, but shall not be less than ten dollars ($10.00).

(2) Other Classes of Service:

The amount of the deposit to establish the credit for all classes of gas service, other than residential or domestic, shall not exceed a sum equal to twice the estimated average periodic bill for that service.

(3) Re-establishment of credit:

The amount of the deposit to establish the credit for any class of gas service, to a customer whose service has been discontinued for failure to pay bills for such service, shall not exceed twice the estimated average periodic bill for that service.

Tariff Advice No. 73-1 Effective FEB 22 1974

Issued by: Alaska Gas and Service Company, Division of Alaska Interstate Company

By: [signature] Title: President

P.S.C. Sheet No. 4 — 1st Revision — Sheet No. 7

Cancelling

Original of 8/15/63 — Sheet No. 7

RECEIVED

MAR 30 1972

State of Alaska
Public Utilities Commission

ALASKA GAS AND SERVICE COMPANY

403 Credit Establishment and Re-establishment (Continued) — Page 7

d. Deposit Receipts

Each deposit receipt for gas service will contain the following provisions:

"Deposit to be refunded only upon surrender of receipt properly endorsed and the full payment by the depositor of all charges for gas consumed or piping and appliances used, and after twenty-four (24) hours' notice shall have been given the Company in which to read the meter and remove the appliances."

e. Return of Deposit

The Company will refund the deposit as set forth under Rules and Regulation No. 403 (f) upon surrender to the Company of the deposit receipt properly endorsed, or upon signing a cancellation receipt for the same.

(1) When the service is ordered discontinued by the Customer, except when there are charges due the Company for gas service to the customer, in which case the deposit will be applied to the charges and the excess portion of the deposit will be returned.

(2) When the customer has established his credit to the satisfaction of the Company, as set forth in Rule & Regulation No. 403 (a) (3).

f. Interest on Commercial Deposits

The Company is not obliged to pay interest upon commercial deposits which it may from time to time require under the provisions of Rule & Regulation No. 403.

Where interest is payable upon commercial deposits, the rate shall not exceed five (5) per cent per annum, and interest is payable only after continuous service has been received for the period of one (1) year and all bills for such service have been paid in accordance with the Rules & Regulations pertaining thereto, as approved by the Alaska Public Utilities Commission. When interest is payable, it will only be paid when deposit is returned or when service is discontinued. No interest will be paid on such interest-bearing deposit receipts if service is discontinued for any cause within less than twelve (12) months from the date of making deposit, and in no case will interest be paid on refunded or unclaimed deposits after discontinuance of service, or after the Company has served written notice or mailed a check to the depositor, at his address of record in the Company's files, as set forth in Rule & Regulation Section 900 hereof, that it no longer requires the deposit.

Refunds of deposits held three (3) years or more on customers who have established their credit, will be made upon request, and from time to time without request, where there is no record of payments being delinquent.

g. Refunds and Interest on Residential Deposits

Deposits will bear 5% interest from the date of January 1, 1970, subject to the following conditions:

1. That the customer's record shows consistently prompt payment during the twelve (12) months preceding the date the deposit is returned.

2. That the deposit has been on file, interest free, for a period of twelve (12) months (or more) prior to the start of interest accrual.

3. That the deposit refund is made on routine scheduling at the Company's convenience (i.e., that it does not require special handling).

4. That the customer's account is still active at the time the deposit is refunded.

404 Rates and Optional Rates - The rates to be charged by and paid to the Company for gas service will be the rates on file with the Alaska Public Utilities Commission. Complete schedules of all rates in effect will be kept at all times in the Company's offices where they will be available for public inspection.

Effective: APR 18 1972

Issued by: Alaska Gas and Service Company, Division of Alaska Interstate Company

By: Dale Teel — Title: President.

Anchorage Daily Times

Anchorage Firm To Pay Gas Deposit Interest

Anchorage Natural Gas changed its position on paying interest on security deposits during the opening minutes of a public hearing here yesterday.

The firm, also known as Alaska Gas and Service Co., in February filed a tariff revision with the Alaska Public Utilities Commission which would allow it to stop paying interest on security deposits.

At the commission hearing yesterday, Paul Robison, the firm's attorney, said paying interest had not been as burdensome administrative task as it was originally thought to be, that it was reasonable to pay interest on deposits and that it would not be unfairly discriminatory to require the company to pay interest not required of other utilities.

The gas company requires deposits of either $25 or $50. It refunded more than $300,000 in security deposits to more than 6,000 customers at Christmas time.

Mrs. Judy Adrian had filed a protest through her attorney, James Grandjean of Alaska Legal Services, over the proposal to stop paying interest on security deposits.

Grandjean maintained that common law requires a utility to pay interest on security deposits.

Robert Lindblom, chief of the commission's tariff section, testified that it is the staff's opinion that customer security deposits constitutes a source of capital.

In a bench order issued less than an hour after the hearing opened, the company was directed to withdraw the tariff revision deleting interest on security deposits, and to begin paying interest on the deposits.

Commissioner James Hegdershot, in announcing the verbal decision, said no evidence in favor of dropping the interest payments had been given. He said he personally was not convinced that it is in the public interest to require interest payments on deposits held for only two years because of the high administrative costs but that, in view of the testimony, "my hands are tied in the proceeding."

The decision applies only to the gas company, and will be optional for the remainder of the utilities, he said.

Rules of practice and procedure, adopted last year by the commission, do not require a utility to pay interest on security deposits. It does require the utility refund the deposit after two years if the customer has a good credit rating.

Mrs. Adrian will not gain from the decision, since her attorney said the gas company already had returned her deposit.

Homer Electric Association, Inc.

P. O. BOX 255 • HOMER, ALASKA 99603 • PHONE (907) 235-8551

April 3, 1975

File with HB 316

The Honorable Leo Rhode
House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99801

Dear Leo:

Enclosed is the information we discussed on the telephone today, with the pertinent Sections circled in red.

Interest on the deposits held for such a short term would simply be a nuisance to the utility and not much real advantage to the consumer.

The copy of the Commissions ruling, which was effective November 16, 1973, contains only the front and back sheets. There are several other pages that have no bearing on your current problem, but could be obtained locally if you need them.

We wish you luck in your current endeavors, and hope that you can make the joint meeting with the Chugach Board in Soldotna on April 11.

Sincerely yours,

HOMER ELECTRIC ASSOCIATION, INC.

W. C. Rhodes
General Manager

WCR: em
Enclosures

ARTICLE 2. UTILITY TARIFFS

Section

EFFECTIVE, November 16, 1973

200. Scope of regulations
210. Waivers
220. Filing of tariff
230. Billing and contract forms
240. Delivery of tariff
250. Tariff on file for public inspection
260. Public notice of tariff inspection privilege
270. Advice letters
280. Notice and effective date
290. Response to notice
300. Waiver of statutory notice
310. Suspension and rejection of tariffs
320. Effective tariff controlling
330. Format of tariff sheets
340. Tariff sheet designation
350. Separate tariff for each utility
360. General arrangement and content of tariff
370. Content of rules and regulations
380. Content of rate schedules
390. Provisions of special contract
400. Adoption notice
410. Tariff of acquired utility
420. Uniform practices

3 AAC 48.200. SCOPE OF REGULATIONS. The regulations contained in secs. 200 - 420 of this chapter cover the construction, filing, posting and publication of utility tariffs, including special contracts. (Eff. / / , Reg.)

Authority: AS 42.05.151
AS 42.05.361

3 AAC 48.210. WAIVERS. (a) Any requirement in secs. 200 - 420 of this chapter may be waived, in whole or in part, by order of the commission upon application and a showing of good cause.

(b) Applications submitted under this section shall be in writing and shall set forth the pertinent facts in sufficient detail to support a finding by the commission that no legitimate public interest will be served by enforcing the requirement designated in the application. An application as required by this section may be made to the commission by an advice letter.

(c) Application for the waiver of a requirement shall also include application for exemption from a related provision of AS 42.05 if waiver of the requirement cannot be granted without also exempting the applicant from the governing law. (Eff. / / , Reg.)

Authority: AS 42.05.141(1)
AS 42.05.151
AS 42.05.361
AS 42.05.711(d)

/ / , Reg.)

Authority: AS 42.05.141(1)
AS 42.05.151(a)
AS 42.05.361
AS 42.05.411

3 AAC 48.410. TARIFF OF ACQUIRED UTILITY. Every utility acquiring ownership or control of another utility or portion of one and filing a notice adopting the rates, rules and regulations, etc., of that utility shall, within 90 days after the filing of such adoption notice, file such rates, rules and regulations, etc. as a part of its own tariff or as a separate tariff in its own name if it plans to continue to operate in accordance with them. (Eff. / / , Reg.)

Authority: AS 42.05.141(1)
AS 42.05.151(a)
AS 42.05.361
AS 42.05.411

3 AAC 48.420. UNIFORM DEPOSIT PRACTICES. (a) When a deposit is required as a condition of receiving utility service the rule which established the deposit requirement shall also set forth the maximum amount of the deposit to be paid, which in no case shall exceed the following amount for a customer of the indicated type of utility as determined by the utility after consultation with the customer:

(1) two-months telephone billings, including toll charges as estimated by the utility;

(2) two-months electric billing based on the utility's estimate of usage;

(3) two months water charges at the flat rate, or two months of metered charges as estimated by the utility;

(4) two-months gas billings as estimated by the utility;

(5) two-months sewer service fees.

(b) The deposit rule shall clearly state the length of time the utility will retain a customer's deposit, but under no circumstances shall a utility retain a customer's deposit longer than two years, providing that in the interim period, the utility has not been forced to disconnect that customer's service for reasons of delinquency in payment of charges, and that the customer has not been delinquent in payment more than once in any 12 consecutive months. The deposit is to be returned to the customer within 25 days of discontinuance of service, except within 60 days for deposits for telephone service, after deducting monies due to the utility. (Eff. / / , Reg.)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.361

RECEIVED
DEC 27 1974
State of Alaska
Public Utilities Commission

HOMER ELECTRIC ASSOCIATION, INC.

The fees, deposits, and service charges indicated above are for each meter, and/or each occurrence. Other charges and fees are applicable to damage to Association's facilities, temporary service or construction service on contract as stated elsewhere in these policies. C

The minimum meter deposits, (b. and c. above), are for new consumer-members that receive electrical service from existing distribution lines. Larger deposits are required for service and line extensions over 151 feet. (See No. 32 of these policies.) The minimum meter deposits shall be refunded after two (2) years of continuous service providing that in the interim period, the Association has not been forced to disconnect for reasons of delinquency in payment of charges, and that the member has not been delinquent in payment more than once in any twelve (12) consecutive months. C

8. RATE SCHEDULES: The monthly cost of electric energy used by the consumer-members shall be computed from published Rate Schedules. Such Rate Schedules shall be developed, revised, and amended by the Association's Board of Directors from time to time as required. Each Rate Schedule shall state to which consumer-member classification the rate applies, the type service available under the rate, the cost of the electric energy used under the rate, and the conditions which service will be rendered under the rate.

A specific Rate Schedule shall apply to each consumer-member classification. Each consumer-member within a given classification shall pay according to the Rate Schedule applicable to that classification.

Reclassification of service may be requested by a consumer-member for legitimate reasons. Reclassification of service will not be approved by the Association for the sole purpose of permitting periodical rate advantages for the individual consumer-member making such a request.

The Board of Directors may develop a specific Rate Schedule for a consumer-member that does not qualify for an existing Rate Schedule. Such a rate schedule will generally be incorporated in a contract between the consumer-member and the Association and by so being is effective only for the term of such contract.

HB 316

M E M O R A N D U M

TO: Susan Andrews
EDP Coordinator
Division of Legislative Finance
Room 409
Capitol Building

FROM: Chief Clerk
House of Representatives

SUBJ: Legislation
Identification_____

Secretary of the Senate

The following information is transmitted for the bill or resolution named above:

1. KEYWORDS - Keywords are important words from the title or from the body of the legislation under which the measure will be listed in the alphabetic index.

Public utilities
Deposits

2. STATUTE REFERENCES - List sections of the statutes added, amended, repealed, or repealed and reenacted.

AS 42.05.551

3. DEPARTMENTS - List departments or agencies referred to or principally affected by the legislation.

Public Utility Commission

February 18, 1976

MEMORANDUM

TO: Representative Bob Bradley,
Chairman, House Commerce Committee

FROM: Terry Berman, Administrative Assistant

SUBJECT: SSHB 468, HB 316

SSHB 468 is a response to requests from firefighters in the state for adequate safeguards against human injury during fires. It provides for the installation of sprinkler systems in buildings seven or more stories high. It was pointed out to Representative Sullivan by fire officials that sprinkler systems have always proved effective when installed throughout buildings. Building owners are given seven years to comply and until automatic systems are installed, they must have emergency escape devices.

HB 316 permits utilities to require deposits under regulations issued by the APUC. Additionally it provides that interest will be paid on deposits held for more than one year. Present APUC regulations provide that deposits cannot be held longer than two years if the customer has not been delinquent in payment more than once in twelve consecutive months nor had his service discontinued for reasons of delinquency However, such deposits do not bear interest for the consumer. Utility companies are free to invest the funds as they see fit. There is a hidden cost to the sonsumer in that he receives no interest on the money and after two years, the sum he had on deposit is worth less than when it was initially paid to the utility company.

Producers of DISSOLVING PULP

KETCHIKAN PULP COMPANY

P.O. BOX 1619 KETCHIKAN, ALASKA 99901 U.S.A.
#310 Prospector Hotel, 340 Whittier St., Juneau, Ak. 99801

EDWARD W. BORGEN, Sr.
Legislative Representative

May 6, 1975

The Honorable Bob Bradley
Chairman, House Commerce Committee
Alaska House of Representatives
Juneau, Alaska 99811

Dear Representative Bradley: Re: HB 468
Fire Escapes

As this bill is scheduled for a hearing on Thursday afternoon, we would like to make some comments for your consideration.

It quite possible that the building codes in the cities and the boroughs in Alaska already have regulations that adequetly cover the subject of fire escapes for business and residential buildings. We know, from our experience as a member of the OSHA Review Board (Occupational Safety and Health) that the state has very strict standards for fire exits and escapes for any building where employees are exposed.

It is not unusual, these days, to find several different regulations covering one specific subject. This often leaves people confused, and finds them in violation of some ordinance, regulation, or law that they felt, in good faith, they had properly met.

Perhaps the areas in the unorganized boroughs pose some particular problem in the residential sector. Industrial, even in the unorganized boroughs, is amply covered under the State OSHA statute.

May we suggest that the areas discussed above be checked before a measure which may cause a conflict is passed out of committee?

Thank you for this opportunity to present our views.

Very truly yours,
KETCHIKAN PULP COMPANY
Edward W. Borgen, Sr.

HB

317

File with HB277

975 MAR 26 PM 7 34

#

02043 TDA DILLINGHAM ALASKA 35 03-26 1050A ADT

PMS HOUSE COMMERCE COMMITTEE

JUN 2920

WOULD LIKE TO EXPRESS STRONG SUPPORT FOR BILL 277 CREATING

TELECOMMUNICATIONS AUTHORITY. NEED IS GREAT FOR BETTER

LD SERVICE AND INTER CONNECTS FOR PUBLIC RADIO

LEO LUTCHANSKY JR SECRETARY BOARD OF DIRECTORS NUSHAGAK

TELEPHONE COPPERATIVE AND MGR DILLINGHAM SCHOOL PUBLIC RADIO

TELEGRAM

BOX ALASKA COMMUNICATIONS, INC.

PHONE: 586-6440

JUNEAU, ALASKA 99801

02-001B (REV. 08-73)

File

MEMORANDUM State of Alaska

TO: Members of the Legislature

DATE: March 26, 1975

FILE NO:

TELEPHONE NO:

FROM: Hilary Hilscher AAA
Office of Telecommunications

SUBJECT: Telecommunications Authority Legislation

Attached for your information is a copy of the testimony presented by the director of this Office, Marv Weatherly, during Senate Commerce Committee hearings on S.B. 277 last Friday. S.B. 277 is identical to H.B. 317.

The testimony outlines the rationale behind the Administration support of the creation of this Authority:
--First, the Authority would be a funding mechanism for securing full financing of a $5 million ground station network for the State. With the present state of the Alaska economy, it was felt that such a sum could not come from the General Fund; the Authority, with its ability to borrow money up to a limited amount, would eliminate that problem.
--Second, the Authority would serve as an administrative structure for communications planning within the State.

The legislation would ensure the reins of control of communications systems policy and planning for Alaska would not be turned over to the commercial carrier. The carrier, if given such carte blanche, would be the complete decision maker with regard to cost expenditures, installation locations and schedules, and future expansion of Alaska's communications system.

The Authority, following purchase of the ground stations, would lease them back to RCA for operation of the state's long-distance telephone network, and also lease channel capacity to the Indian Health Service for emergency/medical communications.. The FAA has also expressed interest in leasing capacity.

Three objections to the Authority have been raised, which deserve response:
1) It has been charged that the Authority would undermine the financing capability of small, local utilities. According to communications economists and financial experts Outside, this is definitely not the case. It would in no way impair the ability of small telephone companies to secure financing of their own.
2) It has been presented that the State system would be in competition with local utilities, thus causing duplication of services and technical problems. The proposed purchase of earth stations by the State would not be competition; rather, the State would simply be providing part of the total communications system. The earth stations the State is proposing buying have been designed with assistance from RCA engineers, to provide exact technical compatability with local exchange and long-distance equipment.
3) It has been charged that the installation of State-owned earth stations

would raise the rates for local utilities' customers. This will not be the case, as RCA will continue to be the long-distance carrier--not the State. Unless RCA chooses to raise its tolls to the local utilities for interconnecting for long-distance service, it is expected that rates will continue at the same level or less than presently charged for interconnection. There is no reason why, if the State owns earth stations, that rates on the local levels should go up.

Hopefully this will clarify some of the issues surrounding the bills to create a Telecommunications Authority. If you have any further questions or would like any additional information regarding this legislation, please call: 465-3550.

File

For the record, I am Marvin Weatherly, Director of the Governor's Office of Telecommunications. I am very pleased to be invited to testify on the proposed legislation to create a Telecommunications Authority. On behalf of the Administration, the Governor's Office of Telecommunications supports this concept, and feels this approach to tackling the great problems of communications is equal to the task.

The one reservation the Administration has with regard to the way the bill reads is the section concerning methods of choosing the Board of Directors. Under the bill language, the Board members would be appointed by the Governor, but would not serve at his pleasure. The Administration is keenly aware of the serious responsibility of communications planning, planning presently done by his Office of Telecommunications. The Federal Communications Commission recognizes the Governor's Office of Telecommunications as the official spokesman for the State of Alaska in major communications applications and policy matters. The Governor feels that without closer ties with the Board of Directors, that is, having the Board serve at his discretion, he could not maintain the close contact and communication necessary to fully carry out his responsibility in this important area. It is felt by this office that such a change in the bill would not hinder in any way the operation and purpose of the Authority, and would actually enhance its effectiveness by allowing continual input from and liaison with the Governor's office. With this small change, the Administration is prepared to fully support the Telecommunications Authority.

We envision the reasons for the immediate creation of the Telecommunications Authority as two. First, creating a funding method by which the State can totally finance the purchase of up to 150 small earth stations to bring emergency-medical and basic telephone communications to every community of 25 or more people in Alaska;

Second, providing a structure under which all the various aspects of communications planning and implementation of the State could be coordinated and carried out. The first reason, the funding mechanism, addresses an immediate, pressing situation. The second, the organizational structure, serves an on-going, long-range function.

I will expand on each of these points separately, but since they're two sides of the same coin, much of the rationale applies to both reasons for the Authority.

First, the funding mechanism. Why get into the communications hardware procurement business anyway?

If the State does not proceed with its stated course of action--to purchase by competitive bid, 100 to 150 earth stations--the process would be left for the common carrier. To allow that at this time would be, in effect, completely turning over the reins of control, policy and planning to the carrier. The carrier would be the complete decision-maker with regard to cost, location and future expansion of Alaska's communications system.

In reviewing the record of the carrier in the State so far, the Administration feels confident it speaks for the people of Alaska in saying we must keep our communications options open--we must not allow our communications future to be left to the discretion of the carrier. The credibility of the carrier is seriously questionable in view of their past and present performance within the State, particularly with respect to the terms of the ACS purchase agreement. Also, the future planning efforts of RCA with respect to the State's needs as outlined by the Governor's Office of Telecommunications, still reflect the best interests of RCA Globcom and its stockholders--not the

people of Alaska.

The fact that these differences still persist, despite nearly three months of almost daily discussions and negotiations with the carrier, casts severe doubt on the carrier's willingness or desire to meet the requirements of the public interest of Alaskans. Significatn areas in which the carrier falls short include:

- not optimizing the planned satellite for Alaska, but for the Lower 48.
- not disclosing vital financial data to allow separations agreements with local utilities, or monitoring of activities by the Governor's Office of Telecommunications or the APUC;
- not adjusting its filing before the FCC to reflect recent agreements to meet State concerns;
- not fulfilling the basic terms of its original purchase agreement when it bought the Alaska Communications System from the Air Force, thus becoming a common carrier for Alaska;
- not obtaining the lowest unit price on quantities of earth stations for a total system, due to planning for system not tailored to expressed State desires;
- not planning for a total, integrated communications system for all of Alaska due to the philosophy stated by RCA Alascom President, Steve Heller that the Bush is a loser to serve.

This a brief overview of the major areas of concern to satisfactorily assume all operation and planning of the State's communications system. Based on the poor past performance of the carrier in some areas, and the resultant credibility problem

present RCA proposals, the State has taken a course of action which will ensure all Alaskans a freedom of choice in their communications system future.

By going out to competitive bid for 100 - 150 small earth stations, with specifications written for Alaska's particular needs, the State will be assured of the best stations for the best cost. Hardware companies have told us that the cost will be about 25% less for buying lots of 100 earth stations, than the price is for buying lots of 20 earth stations, for which the carrier has received bids. The Telecommunications Authority would allow the State to take advantage of the 25% lov r cost because the Authority could borrow the total amount of the 100 or more earth station purchase price. We estimate this price to be somewhere in the ballpark of $5 million. Without full funding, it is doubtful the State could get the cost reduction.

This issue of giving Alaskans a choice brings to the second major purpose for creating an Authority, that of establishing an organizational structure for communications planning.

Presently, a hodge-podge system exists for what little planning actually goes on within State and federal government agencies, private business organizations and individuals. Much of what planning there is, goes on independently of all other planning, and often is devoid of up-to-date technical knowledge of either equipment or systems. Almost any way you put it, the importance of communications cannot be overstated.

Therefore, we are supporting the Authority as an umbrella structure under which communications planning for all areas and needs of the State can be coordinated. We

~~exist~~

envision incorporation of the Division of Communications, now under Public Works, into the Authority; this step is a natural one since we're already working closely with Division engineers and technicians on providing better and more integrated communications for State agencies. The move is agreeable to the Administration, Public Works commissioner Harris and to the Division personnel.

The Authority would assume the leadership and guidance in communications planning, with specific sections dealing with plans and policy, research and engineering, communications economics and monitoring and evaluation of ongoing communications services. Skills and expertise of the Authority would both supplement and complement the talents and responsibilities of the Alaska Public Utilities Commission. The Alaska Educational Broadcasting Commission would also be a strong supporter and ally of the communications planning function of the Authority, looking toward the long-rnage goal of multiple communications services--specifically broadcasting--to all areas of the State. The Authority could provide technical, systems or economic information and assistance to any and all entities, government or private, involved with incorporating a sophisticated telecommunications tool into their particular activities.

Never before in this country has there been the opportunity to approach communications in the way we can now in Alaska. In fact, the very fact that we've lagged so far behind the rest of the country is what allows us to jump into the 21st centruy in communications.

Because we're not locked in by an existing system which has grown up over decades, we have the opportunity of starting almost from scratch to build a comprehensive communications system to meet all the varied needs of Alaskans;

Because we're not locked into a traditional type of equipment, we have the opportunity to incorporate the most modern developments in communications technology and equipment--using the satellite as a focal point;

And finally, because we're not locked in by traditional thinking and operating methods, we have the unique opportunity to develop a whole new philosophy of communications. In the past, communications systems have grown up on an incremental basis--string more wire, build onto what's already there, plan as you go. Increment by increment was the traditional approach. But now, in Alaska we can start with the overall picture: Where the people are, where the needs for what services exist, and what the foreseeable requirements for the future will be. For the first time in American communications history, we can plan the total system from the top down. We can start with today's technology, systems and programming to determine the goals and direct the development of our communications system.

Creation of the Telecommunications Authority will, we feel, help ensure that Alaska uses this unique opportunity to build and plan its fully modern communications system to serve all its people.

RCACTR MGM JNU

1975 MAR 25 PM 1 44

RCAALASCOM AHG

TO: THE HONORABLE SENATOR KERTULLA 2509
CHAIRMAN, COMMERCE COMMITTEE
ALASKA STATE LEGISLATURE
JUNEAU, ALASKA

file

MARCH 25, 1975

RE: SENATE BILL #277 AND HOUSE BILL #317

THE SUBJECT LEGISLATIVE BILLS PROPOSE AN ACT CREATING THE ALASKA TELECOMMUNICATIONS AUTHORITY. RCA ALASCOM IS ADVISED THAT THESE BILLS WERE INTRODUCED ON OR ABOUT MARCH 14, AND THAT CONTINUED PUBLIC HEARINGS ARE BEING HELD BEFORE THE COMMERCE COMMITTEE ON TUESDAY, MARCH 25 AT 2:00 P.M.

RCA ALASCOM HAS ATTEMPTED TO REVIEW THE CONSIDERABLE DETAIL CONTAINED IN SENATE BILL 277, WHICH WE UNDERSTAND HAS ALSO BEEN INTRODUCED IN THE HOUSE OF REPRESENTATIVES AS HOUSE BILL 317 IN EXACTLY THE SAME LANGUAGE, AND IT IS APPARENT FROM EVEN THIS LIMITED REVIEW THAT RCA ALASCOM MUST VOICE ITS STRONGEST AND UNEQUIVOCAL OBJECTION TO THE PASSAGE OF ANY SUCH LEGISLATION AS PROPOSED IN S.B. 277.

RCA ALASCOM HAS THE DUTY TO MAKE ITS VIEWS AND EVALUATION OF THE PUBLIC INTEREST KNOWN TO THE APPROPRIATE STATE AUTHORITIES. THIS EVALUATION IS BASED ON RCA'S EXTENSIVE EXPERIENCE IN TELECOMMUNICATIONS AND SPACE TECHNOLOGY AND IN THE OPERATION AN MANAGEMENT OF COMPLEX SATELLITE AND TERRESTRIAL SYSTEMS. I REQUEST THAT YOU ACCEPT THIS TELEGRAM AS RCA ALASCOM'S STATEMENT OF POSITION, AND THAT YOU MAKE IT A PART OF THE RECORD OF THE HEARINGS ON THIS LEGISLATION. THIS PARTICULARLY IMPORTANT IN VIEW OF THE EARLIER HEARING OF YOUR COMMITTEE ON FRIDAY, MARCH 21, AT WHICH I APPEARED AND PRESENTED STATEMENTS RELATIVE TO THE PROPOSED LEGISLATION. AFTER REVIEWING THE REMARKS I MADE AT THAT HEARING, IT APPEARS THAT A CLARIFICATION OF THE RCA ALASCOM POSITION IS NECESSARY IN ORDER TO AVOID ANY POSSIBLE MISUNDERSTANDING OF MISINTERPRETATION OF MY REMARKS.

THE POSITION OF RCA ALASCOM IS AS STATED IN THE DOCUMENT PRESENTED TO THE COMMITTEE DURING MY APPEARANCE ON 3/21/75 TITLED ALASKA COMMUNICATIONS FOR THE RURAL COMMUNITY DATED 3/20/75 CONSISTING OF NINE PAGES. THAT DOCUMENT ESTABLISHES FOR THE RECORD THAT RCA ALASCOM IS NOT IN FAVOR OF STATE OWNERSHIP OF A TELECOMMUNICATIONS SYSTEM OR OF THE PUSH TELEPHONE EARTH STATIONS. THIS IS THE POSITION THAT RCA ALASCOM TOOK IN A MEETING WITH GOVERNOR HAMMOND ON TUESDAY, MARCH 25, AND THIS IS THE POSITION THAT RCA ALASCOM TAKES WITH RESPECT TO THIS PROPOSED LEGISLATION IN S.B. 277.

I WANT TO STRESS THAT RCA ALASCOM, AS THE LONG LINES CARRIER IN THE STATE OF [illegible]

IN VIEW OF THE EARLIER HEARING OF YOUR COMMITTEE ON FRIDAY, MARCH 21, AT WHICH I APPEARED AND PRESENTED STATEMENTS RELATIVE TO THE PROPOSED LEGISLATION. AFTER REVIEWING THE REMARKS I MADE AT THAT HEARING, IT APPEARS THAT A CLARIFICATION OF THE RCA ALASCOM POSITION IS NECESSARY IN ORDER TO AVOID ANY POSSIBLE MISUNDERSTANDING OF MISINTERPRETATION OF MY REMARKS.

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I WANT TO STRESS THAT RCA ALASCOM, AS THE LONG-LINES CARRIER IN THE STATE OF ALASKA, AND AS SUCCESSOR TO THE ALASKA COMMUNICATIONS SYSTEM NOW HAS THE LONG-LINES RESPONSIBILITY FOR PROVIDING MODERN, EFFICIENT AND ECONOMICAL SERVICE TO ALL THE PEOPLE OF ALASKA AND HAS ASSUMED PARTICULAR RESPONSIBILITY FOR SERVING THE REMOTE VILLAGES, AS QUICKLY AS THE MEANS OF SERVICING THEM ARE DECIDED. RCA ALASCOM BELIEVES THAT WORKING TOGETHER WITH THE LOCAL EXCHANGE UTILITIES WILL PROVIDE ALL ALASKANS THE MOST EFFICIENT TELECOMMUNICATIONS SERVICES TO MEET STATE-WIDE AND INTERSTATE SERVICE REQUIREMENTS AT REASONABLE RATES UNDER THE EXISTING SCHEME OF STATE AND FEDERAL REGULATIONS. UNDER THESE CIRCUMSTANCES, I MUST STATE AS STRONGLY AS I CAN THAT RCA ALASCOM CANNOT FAVOR OR SUPPORT STATE OWNERSHIP OF A TELECOMMUNICATIONS SYSTEM WHICH WOULD DUPLICATE ITS FACILITIES, DIVIDE RESPONSIBILITY, PRESENT DIFFICULT AND COSTLY PROBLEMS OF INTERCONNECTION AND FRAGMENT THE REVENUES NEEDED TO SUPPORT SERVICE TO SUCH VILLAGES AND SPARSELY POPULATED AREAS.

ACCORDINGLY, RCA ALASCOM MUST EMPHASIZE THAT THE PROPOSAL THAT THE X STATE OF ALASKA ACQUIRE, CONSTRUCT, AND MAINTAIN DOMESTIC COMMUNICATIONS SATELLITES, SATELLITE EARTH STATIONS, TRANSLATOR SYSTE AND A STATE-WIDE PUBLIC SERVICE COMMUNICATION NETWORK WOULD, IN FACT, BE COUNTER-PRODUCTIVE. RATHER THAN BRINGING HIGH QUALITY ECONOMICAL SERVICES TO THE REMOTE VILLAGES, IT WOULD GIVE RISE TO COMPLEX TECHNICAL AND FINANCIAL PROBLEMS, COULD DELAY RATHER THAN EXPEDITE MUCH NEEDED SERVICE TO REMOTE AREAS AND IMPOSE UNNECESSARY COST UPON ALL USERS IN ALASKA.

IN SUM, THE PROPOSED LEGISLATION IS CONTRARY TO THE PUBLIC INTEREST.

SINCERELY,

STEPHEN D HELLER
PRESIDENT
RCA ALASKA COMMUNICATIONS, INC.

MCACTN MGM JNU

HB
320

HB 320

Tape No.	Date
23	4/4
26	4/11

"An Act relating to withholding tax; and providing for an effective date."

COMMITTEE REPORT

3/20/75

HOUSE

Mr. Speaker: Date _____

The Committee on Commerce has had HB 320 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

02-001B

STATE of ALASKA

MEMORANDUM

File

TO: R. D. Stevenson
Special Assistant

DATE : April 3, 1975

FROM: Frederick P. Boetsch, C.P.A.
Deputy Commissioner, Taxation

SUBJECT: Regulation of Withholding Tax Rates
House Bill 320

This bill would amend AS 43.20.170 (a) which provides that the withholding rate for Alaska income tax purposes is 20.5 percent of the appropriate Federal withholding. Instead of specifying a percentage in the Statute, authority would be given to the Department of Revenue to publish an appropriate rate of withholding expressed as a percentage of the amount required to be withheld under the Federal tables. That percentage would be computed in such a manner to approximate the amount of tax due on the wages under the Alaska Net Income Tax Act. The purpose of this bill is to eliminate the necessity to alter the percentage by statutory amendment every time the Federal government changes its withholding.

Since the Alaska Net Income Tax rates are fixed, it makes sense that the Alaska withholding tax tables should also remain constant unless there are changes in the definition of taxable income. There should not, however, be a change in the Alaska withholding table every time the Federal tables change since those changes are often based on changes in the Federal rates. As a convenience to the employers, we have established a procedure whereby the employer need only take a certain percentage of the Federal withholding in order to compute the Alaska tax withheld. In order to make this work, it is necessary that the Alaska withholding rate be adjusted every time the Federal tables change. This happens so frequently that it creates an unnecessary burden to require that the law be changed every time the Federal withholding tables change.

For example, the President has signed into law a new tax measure which will cause Federal withholding tables to change in May and again in January of 1976. In order for us to maintain a constant rate of withholding it would be necessary to amend our current law, both now and again for January.

It is much simpler and more straightforward procedure to allow the Department to set the appropriate rate based on timely information received on changes in the Federal tables. This will allow us to more quickly respond to these changes and therefore protect the State Treasury from any sudden, and possibly costly, changes.

Although the withholding taxes are really a prepayment of income taxes and the income tax is due regardless of whether it is withheld, we believe that a drop in revenues could occur if House Bill 320 is not enacted. The withholding system is designed as a pay-as-you-go way of collecting income taxes. Since most people usually qualify for a refund at the end of the year, it has

also proven to be a very effective means of assuring compliance.

In our case, with a large transient population, the withholding system is essential to obtain good compliance with our income tax law. If a transient worker wound up owing a tax at year's end it is less likely that he would file a return than if he has a refund. Therefore, it is necessary that we be able to set the withholding tax at a rate that would result in either a small refund or small amount of tax owing at year end.

We have not estimated the effect on Treasury since we do not know how much compliance would be reduced by reduced withholding. Collections from the withholding system would drop by between $5 million and $6 million per year. This would be offset to some extent by payments with tax returns filed after year end.

There are no administrative costs connected with this bill.

FPB:eh

HB

356

HB 356

Tape #	Date
29	4/17
30	4/17
32	4/19

"An Act creating the Alaska Horse Racing Commission and authorizing pari-mutuel wagering at sanctioned events."

COMMITTEE REPORT

3/28/75 HOUSE JUDICIARY

Mr. Speaker: Date _____

The Committee on COMMERCE has had HB 356 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

AMENDMENT

OFFERED IN THE HOUSE: BY: Commerce Committee

To: _____ HOUSE BILL No. 356

SENATE BILL No. _____

PAGE: _____ LINE: _____

Page 1, line 15

Change the word "twenty-five" to "eighteen"

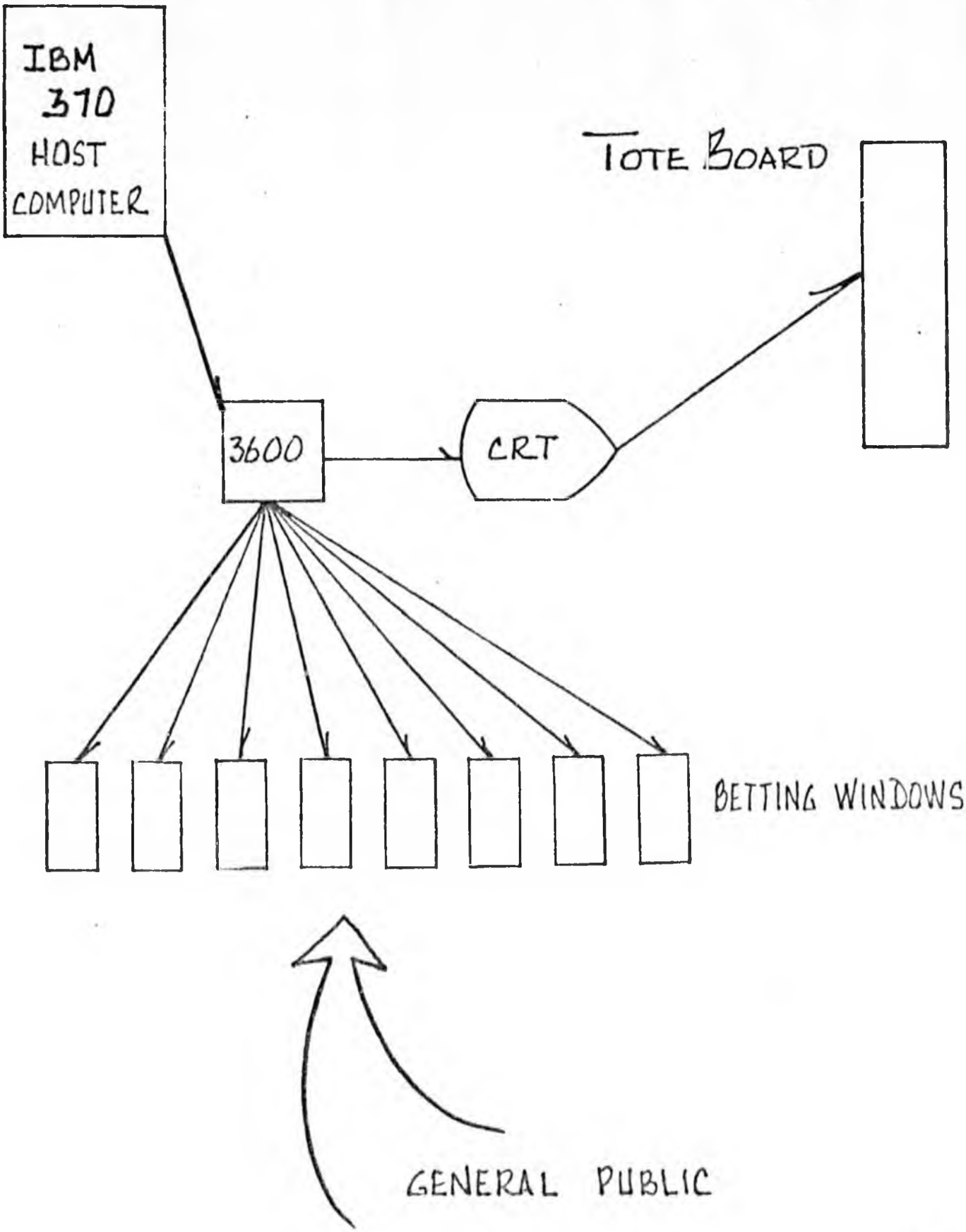
Page 6, line 8

Change the following: "Section 6. Section [illegible]

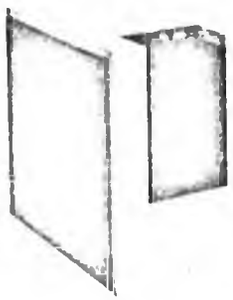
Altec
SRB 360 PALMER, ALASKA 99645
745-3072

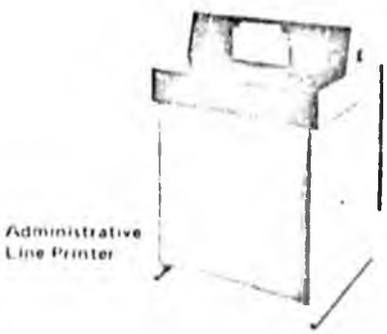
* * C O N T E N T S * *

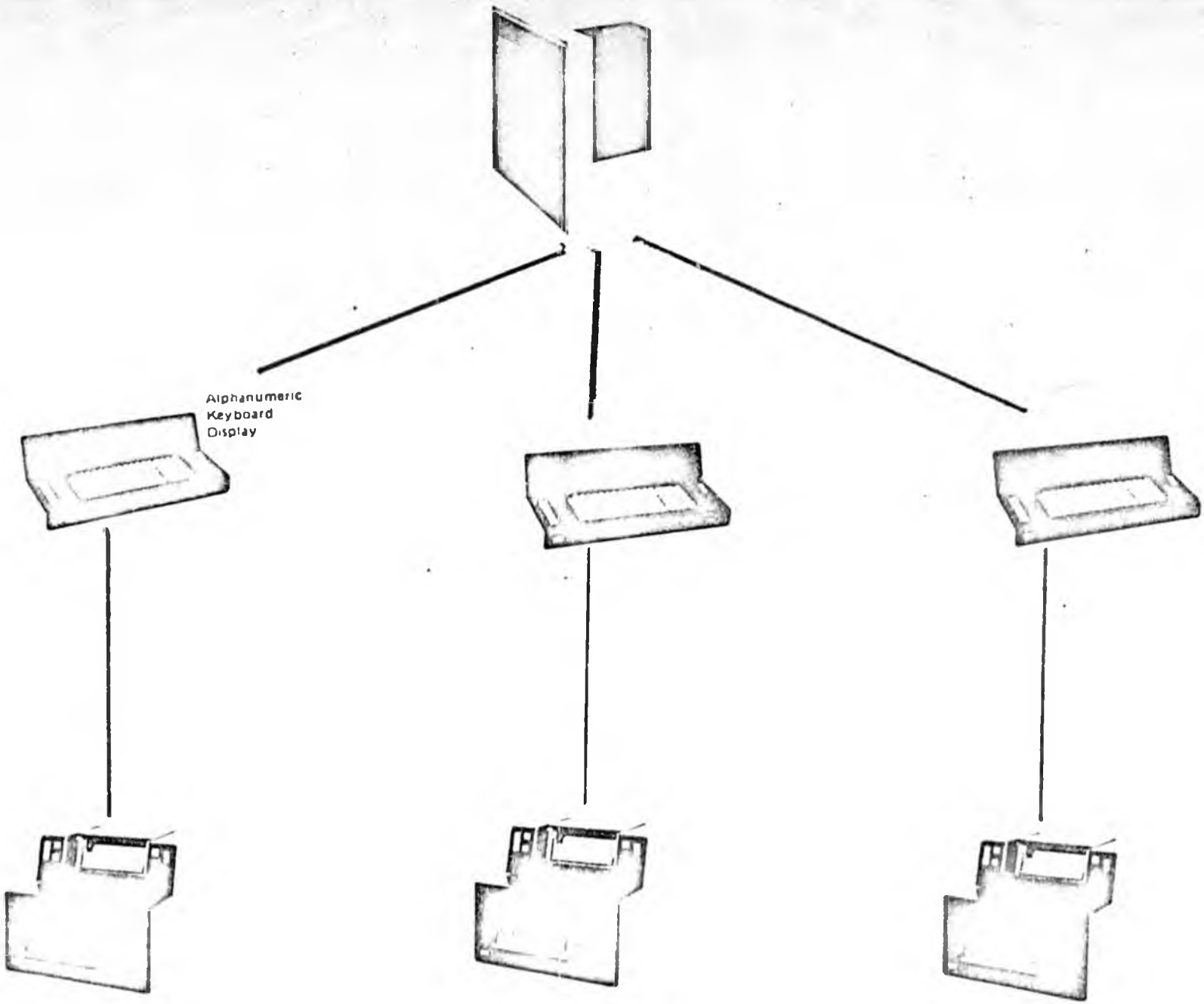
1. System Overview
2. Central Configuration
3. Track/Cashier Configuration
4. Keyboard Display
5. Sample Display
6. Control and Security
7. 3600 System Costs
8. OTB Computer Applications


IBM
370
HOST
COMPUTER
TOTE BOARD
3600
CRT
BETTING WINDOWS
GENERAL PUBLIC

Telephone Lines
Computer


Controller

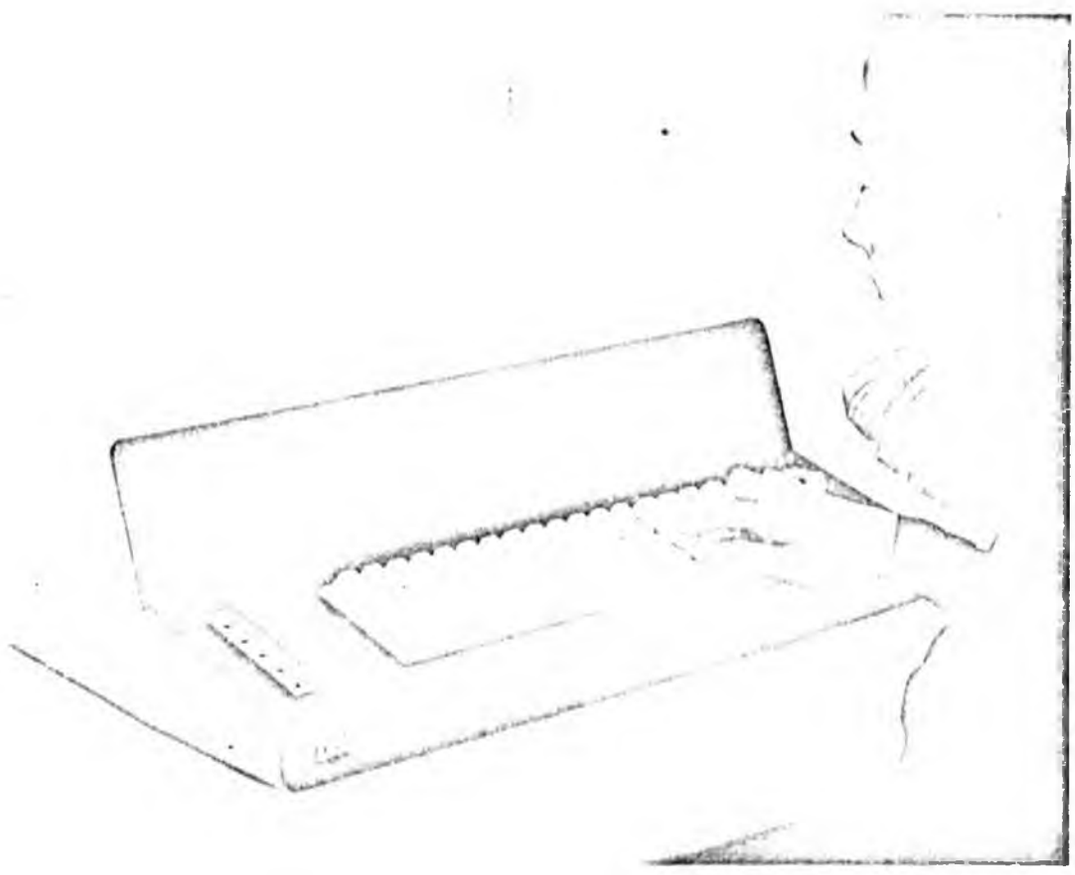

Administrative
Line Printer


Alphanumeric
Keyboard
Display

IBM 3604
Keyboard Display

The Keyboard Display (Figures 3 and 4) is an interactive terminal for use by tellers, loan officers, auditors, and others. It contains a viewing area for up to 240 characters of information. The displayed information may be customer data or operator instructions, presented under control of the IBM 3601, or it may be the information entered from the keyboard.

Several keyboard options are offered with the IBM 3604. Keyboards with special "function keys" are available as well as the standard numeric or alphanumeric keyboards. The use and nomenclature of function keys are specified as desired by the individual financial institution.



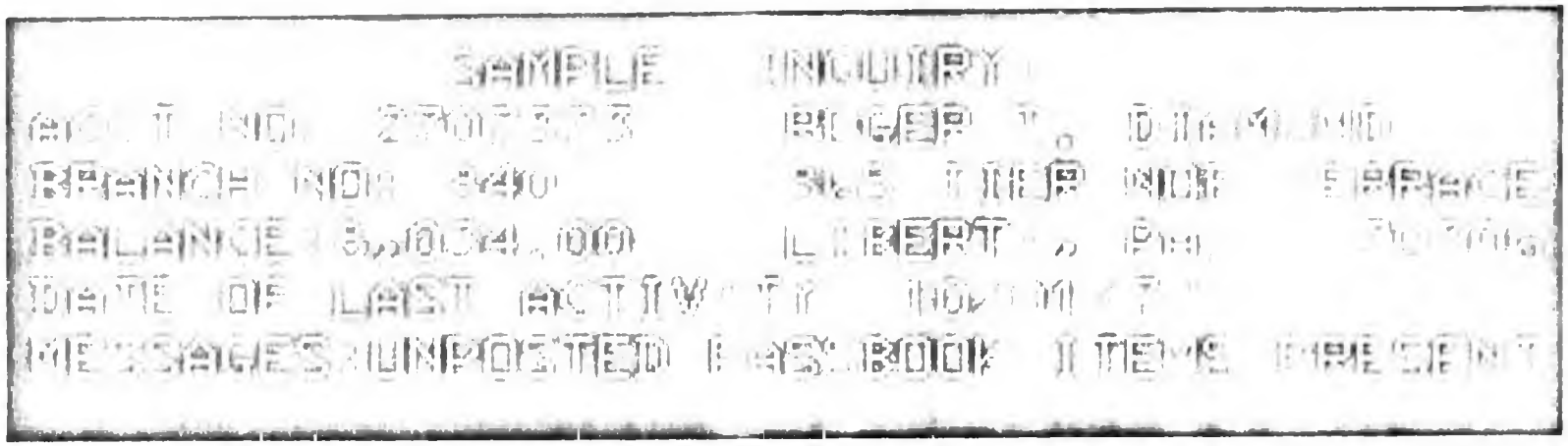
IBM 3604 Keyboard Display with Alphanumeric Keyboard Feature

Display

The display shows 240 characters (6 lines of 40 characters) sharply and steadily. It may be used to do two important things for you:

1. Display the information that you enter at your keyboard. You can thus check your message for errors before you send it to the computer or before you have it printed. If there are any errors, you can change the message and see the change on the display.
2. Display information or guidance messages for you from the computer. Examples are: (1) an answer to your inquiry (the present balance, let's say), (2) the result of a transaction (for example, the new balance after a deposit), (3) a message to help you through an unusual situation or a less frequently used transaction. Note that even though you may have only a numeric keyboard, alphanumeric messages from the controller to you can be displayed.

A sample display is shown in Figure 7.



Sample Display

Audit and Control

The use of an IBM 3600 in a branch office introduces a new way to process information. Terminals become key operational devices. Transactions are guided by terminal prompting, data is gathered by terminal keying, and system information is accessible by terminal action.

Controls and audit procedures are very important. The institution can incorporate a variety of security and control measures, audit trails, and error-detection schemes into its application programs. As an illustration, consider operator identification.

If desired, application programs can be written so that operators must identify themselves with a log-on code before they are permitted to use the system. The procedure might be simply to enter a confidential identification name or number. Each terminal user would be assigned a unique code, and code changes could be made periodically or as needed. The system could be programmed to permit only certain codes at certain terminals, and to allow no more than one log-on at a time per terminal. A log-off procedure (such as keying the term "Off") would prevent subsequent use of the terminal until another valid log-on was entered.

When two operators use the same terminal unit or units, special keyboard keys can be used to identify the operator who is processing a transaction. In this way, the system can keep track of individual activity and maintain separate records and accountings.

As an additional security measure, the system could be programmed to provide an authorization mechanism which allows operators to perform certain specific transactions but not others. This technique is valuable for restricting access to information that only certain users need: supervisors or managers, for example. It can give extra protection to particularly sensitive information.

Problem Determination and Fault Isolation

The IBM 3600 system minimizes the effect of fault conditions. Checking circuits and controls are built in to identify problems and to isolate their cause so that quick corrective action can be taken.

For example, suppose a Keyboard Display has a failure in the circuitry that exchanges data with the IBM 3601 control unit. On the terminal a CONTROL READY light (usually lit) begins to flash, or is extinguished altogether. Turning the unit off (or throwing the DSBL UNIT switch) disables the terminal and permits the remainder of the system to function normally. Therefore, the problem can be corrected with minimum effect on the system.

If a failure occurs elsewhere in the system, it may be flagged by a CONTROL READY light indication, by a special message from the IBM 3601 control unit, or by other system means.

Furthermore, IBM-designed tests are incorporated into the IBM 3601 and may be activated at any time. They exercise and test the terminals, and provide assurance that each device is performing properly.

* * 3600 Hardware Costs * *

	Monthly	Extended Monthly	Purchase
Central Processor	$523.00	$445.00	$20,140.00
Display Consoles (8)	496.00	424.00	2,120.00
Document Printers (4)	300.00	256.00	2,545.00
Central Site Prtr	125.00	108.00	2,350.00
	$1,444.00	$1,233.00	$27,155.00

These hardware costs reflect only the mainframe and peripheral devices. Additional costs will be incurred in the event of a need to configure additional mainframe modules, e.g., multiplexor, also cable considerations, and site preparation are not included.

Large Scale Off-Track Betting Systems

Stephen L. Dunik
IBM Canada Limited

Introduction

While legal off-track betting in North America has only been active since April 1970 (in New York), it has been available to Australians since 1960, following the installation of telephone betting in the state of Victoria.

An off-track betting system is one that allows individuals not within the confines of a racetrack to place wagers either in person at a branch office facility, or via telephone if an account has been established. The law usually requires that all bets placed off-track be consolidated with the on-track parimutuel system of any race within a given state.

In 1971-72 the Australian public invested an average of $147 (Australian) per person in racing bets. This represents a total investment of some $1.9 billion spread over off- and on-track. The average yearly growth rate over the past eight years has been 15 percent and the current rate of increase in off-track betting is about 20 percent. The largest, New South Wales Totalizer Agency Board (N.S.W. TAB), which installed its on-line system in 1971 with an expected life of 10 years, passed its 1980 forecast bet levels in 1973.

The TAB of N.S.W. is set up under a state government act to provide legalized off-track betting facilities on horse and dog races within the state. Similar legislation and operations exist within other states in Australia, Tasmania being the last to set up such an operation. The N.S.W. Board was set up in 1964 and went on-line in 1971. Turnover in N.S.W. off-track betting for the year ended

expected to exceed $1.0 million.

Of the total monies invested in the TAB, 13 percent is deducted and the remaining 87 percent is paid in dividends. Of the amount deducted, 5.5 percent goes to the state government and 7.5 percent is used to cover TAB operating costs and a distribution to the race clubs. The TAB operating cost last year was 4.5 percent of turnover.

In the U.S., OTB legislation exists in three states and is being considered in 14 others.

Racetrack Betting Betting procedures at racetracks result in fast ticket selling over a short period of time for each race. The ticket windows open about one-half hour before post time and each window generally handles only one bet type for a single amount (for example, $2 Win, $5, Show, $10 Place) and for the upcoming race only. Once at the desired window, the bettor need only give the teller the number of the horse, pay his money, and receive his ticket. The teller presses the appropriate button; the ticket is issued; and the wager recorded. To place a different type of bet, the bettor must go to another line. Under this procedure, tellers can sell tickets at a rate of about 20 per minute.

Off-Track Betting The nature of off-track betting dictates a totally different procedure from on-track betting. Betting opens for all operating tracks and races at the beginning of the working day. The variety of types of bets that may be placed at an off-track betting office precludes the use of specialized windows. One teller handles all bet types such as Win, Place, Show, Daily Double, Exacta, and Quinella, in all denominations, for up to 10 races, at each of several tracks. The bettor must specify his choice of track, race, horse, bet type, and amount for each bet he wishes to place. The teller must place the bet, validate the bet information, issue a ticket, and calculate and receive the total money due.

The ticket-issuing machine must be able to enter a bet, consisting of the above information and number of tickets, and in a short response time (approximately 3-6 seconds) issue a wallet-sized ticket, with the printed data describing the bet. This is a perfect duplication of the betting procedures a bettor would have had to perform at an on-track site, with one exception as mentioned the amount of data communicated at an off-track site is greater than that communicated on-track.

These steps can slow the off-track operation to about two bets per minute, thus creating long, slow-moving lines and discouraging the bettors. At this rate, the amount of money a teller can take in is limited, thus severely restricting the profit to the state as an off-track betting operator. Since a significant percentage of the gross must be spent on the teller operation, an increase in the number of tellers raises costs almost in proportion to the revenue generated.

This article describes the general requirements for an off-track betting system. A major system currently installed in New South Wales in Australia and a second system to be installed in Western Australia next year are also described.

Typically off-track betting is carried out in two forms. Remote branch office betting where the bettor must present himself to place bets or collect winnings and telephone betting where bets given over the telephone are placed by an operator against the bettor's account.

Central Control Function At the beginning of each day, the system is initialized from the central office using data forwarded from the previous day in addition to the track profile for the day. Branch offices are opened for business, after which branch supervisors and tellers may sign on to the system. As the system functions throughout the day, information is made available to authorized personnel concerning the status of individual tellers and branch offices as well as the system as a whole. Supervisors may also effect security changes within their area of responsibility, such as inserting, modifying, or deleting teller information. At the end of the day, the system is shut down in an orderly fashion. Terminals and branch offices are closed for business, and any data such as track profiles or winnings needed for the following day is recorded.

During system initialization, the day's racing information is gathered and entered in the track profile table. These records include (for each track) identification, races, race close times, horses, bet types, pool summaries, initial odds, allowances, and provisions for scratches, cancellations, and payout amounts. A directory of table entries is kept in main storage during betting.

When the supervisor is satisfied that the system has been correctly initialized, he may proceed to the established data verification and test procedures and, finally, to the opening of branch offices and the day's betting.

Whether a branch office opens automatically at system initialization time or by a specific command at a later time, the system must inform each branch that the off-track betting system is ready to accept transactions and must open a cash-on-hand counter for each branch opened. The branch responds with a confirming message and terminals then may sign on when they are ready to accept transactions.

The central office also handles the information that is exchanged between the track and the off-track betting system. From the track to the off-track system comes information about scheduled races and horses, horses scratched, race cancellations, and race results; to the track from the off-track system comes the data from the bet pools—that is, the total amounts of money bet on each race and horse.

To scratch a horse, the system administrator enters the track, race, and horse identification. When the transaction is confirmed, the system flags the horse in the track profile table and the horse record in the track profile record as scratched. The system prevents further betting on the horse. The bets on the bet files remain unchanged until payout. At that time, the horse is treated as a winner, with the payout equaling the original bet. If a customer wishes to redeem a bet placed on a horse he knows is scratched, he should cancel his bet. Thus, if the horse is reinstated, previously uncanceled bets go as placed.

To shut down a track for conditions such as inclement weather, the off-track betting system administrator inputs the track name and date. Once the entry is validated, the system locates the track profile table and determines the

first race not yet run for the track. The race record is marked "canceled" and the payout routine procedure is performed, making the payouts equal to the original bets.

At a given time before the race, usually a half hour, the race close-transaction is issued and the system ceases to accept bets for that race. The race close-transaction can be issued either from the system timing function or from an off-track betting system administrator at the central system.

When the system receives a race close-transaction, the track profile race record is located and flagged to discontinue betting. The transaction then waits for a fixed period, allowing any bet transactions in process to complete their updating of the pool data. The accumulated pool data is then transmitted to the system administrator. For in-state tracks, he passes the information on to the track, where it is integrated with the on-track pools. For out-of-state races, the pool data is retained until the results entry transaction is completed.

After a race has been run, the system administrator enters the results into the system, thus activating the payout of winning bets. He enters the track, date, race, finishes (up to five in the case of some perfectas) and, in the case of in-state races, the track-calculated payouts.

Payout tables are built in computer memory, either from the track-provided payouts for in-state tracks, or from parimutuel calculations based on the pool data records for out-of-state tracks.

The system displays the input data for verification of content and, once correct, locates and updates the necessary track profile information. A printed report is then available on demand to the branch office supervisor.

Betting Office Operations A teller signs on using a special entry procedure which normally includes his employee number and cash drawer balance on hand. When all input has been validated, the betting terminal may process transactions.

A teller signs off by a sign-off procedure using his employee number. The system typically responds with the closing cash drawer balance and the number of tickets sold, cashed, and canceled. Date and time of sign-off and hours worked are also recorded. No further transactions may be processed at that terminal position until a teller has signed on again.

The design of the betting and payout system incorporates fast response time with accuracy. The high volume of bets demands the ability to process bets and payouts quickly.

The primary input data consists of the track, day, race, bet type, horse(s), and amount.

The bet is placed using key-operated or optical-mark-read terminals, and the data is transmitted to the computer. Typically, the length of a bet message is 13 digits plus terminal and branch identification. Using the track profile table for reference, the selection is edited for consistency such as (1) the bettor must select two horses if the bet is a daily double, (2) betting for the selected race must be open, (3) a valid horse number must be selected, and (4) the horse must not have been scratched. For errors, the computer generates an explanatory message to be returned to the originating terminal, where the message is displayed or printed, and the transaction is terminated.

If all criteria for a valid bet are satisfied, the bet is recorded. The system logs the transaction, assigns a serial number to the bet, and creates a bet record containing the bet serial number, bet origin (teller, branch office), date and time, race date, track, race, horse, bet type, amount, payout amount, payout location, and cancellation and scratch information. Each bet entered also updates the cash-drawer balance maintained in the system for each teller terminal.

Along with the cash-on-hand maintenance for each teller are statistics such as his sign-on and sign-off times as well as value and number of tickets sold, paid out, and canceled. These are all recorded in the teller statistics file.

The betting ticket is given to the bettor. The ticket usually contains betting information, the serial number, and date. In the event of an error, the ticket may be printed with an error message.

After the race results have been processed, all the winning bets or scratching refunds (or in the case of canceled races, every bet on that race) have their payouts calculated and written onto the winning bets file.

Normally Win, Place, and Show bet processing is handled differently from other bet types. After the race is completed and before the results are official, a list of the probable winners is entered into the system. This is used to extract all of the probable winning bets from the bet file. When the final winners are known, the small work file is scanned first and the payouts calculated. This scan of the bet file is also used to prepare statistics on each branch and number of tickets sold. This makes use of the time between race completed and official results, which gives faster turnaround on payout.

On doubles, after the first race has been run and the results have been declared, the bet file is scanned for all bets corresponding to the first winner. These bets are placed in a file for processing after the second race of the double is completed. Usually all other bet types such as quinella and trella are handled by a single pass through the bet file once the results have become official.

Statistics prepared during these passes of the bet file include the total number of winners, the payout amounts, and the number of tickets and amounts for each pool. These statistics are normally broken down by branch.

To pay out a winning bet, the cashier either keys in the ticket serial number or passes the ticket through a special reader. In any event, the serial number is transmitted to the computer for verification. The system retrieves the bet record and verifies that it is, in fact, a winning (or scratched) ticket that has not been previously paid or canceled. Winning bets that have been paid off by a branch are marked on the winning bets file so that any subsequent attempts to pay off this bet will be flagged. The payout amount is then transmitted to the terminal for printing or displaying. The teller's cash-drawer total is decremented by the amount of the payout.

If the ticket is not a winner, a descriptive message is returned to the terminal and the worthless ticket is returned to the bettor for his review. In the case of a scratched horse or canceled race, the bettor is refunded an amount equal to the original wager.

To cancel a bet, the serial number of the bet encoded on the betting ticket must be entered. Upon receiving the serial number of the bet to be canceled, the system locates the

bet record, notes for the cancelled, deletes the amount from the pool(s), and updates the cash-drawer balance (for a branch office bet).

The betting authority determines how long a bet record remains payable on-line. After this period, bets are carried only off-line and winning tickets can be redeemed only by mail or at a central location.

Telephone Betting Operations The telephone accounting subsystem performs the administrative functions required for telephone betting. It is similar to a "banking operation" in that accounts are opened or closed on written authority only.

Telephone account-opening processing includes checking the completeness and reasonableness of data, providing a unique account number, establishing a password, building and adding a new account record to the telephone record file, and flagging the record to permit betting once the deposit is firm. The telephone betting account file contains all the details of the accounts that are needed during on-line operations (that is to say, the account code and number, the date and time of last transaction, and the current balance), and it contains links to the day's transactions and dividends. This file contains one record for each of the accounts, so it can be accessed either sequentially by scanning the whole file or directly by using a simple algorithm to convert the account number into a disk address. This file is updated continuously during the day's operations with all transactions—bets, dividends, deposits, and withdrawals—which can affect the balance or status of the account at any time.

Telephone account deposit requires retrieval of the telephone account record based on the account number and password. The deposit amount is added to the current balance in the record and the updated record returned to the data file.

For telephone account withdrawal, the telephone account record is retrieved on the basis of the account number and password. The current balance is checked to see if the withdrawal request can be met. The current balance must remain above the withdrawal. Once the withdrawal is approved, the current balance is reduced by the withdrawal amount and the updated record is returned to the data file.

Statements are prepared as requested by the bettors. They show opening balance, transactions occurring in the period, and closing balance.

Telephone account closing requires positively identifying the bettor as defined by the user, logging all details of the closing, deleting the account from the files, and preparing a closing statement and a check for the amount remaining in the account.

To place a telephone bet, the operator at the telephone betting station enters the customer account number into the system via the keyboard and, for a valid account number, the system displays a password, account status, date and time of last transaction, and account balance.

Once enabled, the account is blocked to all other accesses. The operator then requests the password from the customer. When the password is accepted, the operator requests betting information from the bettor and enters the bet as a transaction to the appropriate account. The system validates it as for a branch office transaction with an additional check to ensure that the bets do not exceed the customer account balance. If the updated account balance is negative, the last transaction is rejected.

Once the bet is accepted, the bet entry is basically the same as for branch office bets but with three additional considerations:

- The account balance is debited with each bet amount instead of updating the teller cash-drawer balance.
- The bet record created is keyed to the account number to enable later crediting of winnings.
- No ticket is generated; however, data is retained to generate an account statement, if required.

As each bet is entered, the telephone betting file logs the details of each bet. It also contains details of deposits, withdrawals, and account changes originated either from a branch or from a Telephone Betting Terminal, or by the system by race result processing. All the transactions for any one account are linked together to allow easy retrieval of any transaction.

After the last bet is entered, the system displays the new account balance, the total value of the bets, and the time. At this time, the processors update their telephone betting status table in memory is now updated to reflect the removal of active accounts.

Telephone bet payout differs from branch office bet payout mainly in its manner of initiation. When race results become known, the entire telephone betting bet file is scanned for any winning bets on the results just obtained. As they are found, the bet details are used to calculate the payout, and they are placed on the telephone betting payout file. This file contains details of all the winning telephone bets. After the race result processing is complete, this file is scanned, and the payout value is extracted and credited to the appropriate account. While this is being done, the file is linked in the same fashion as the bet file so that all the dividends for any one account can be easily found.

To assist with telephone betting inquiries, a display format file is used which contains the various formats displayed on the screen in response to format number entry. The functions that are normally entered include race result, scratching, inquiries as to race status, or system status.

Remote Off-Line Betting Operation A third form of bet entry is made from very remote branches using dial-up, teletypewriter-like terminals. The difference is that the bets are collated manually at the remote branch and only the collated data is transmitted. The incoming data is accepted and checked in the same way as normal bets. These bets are logged on the bet file with special identifying codes.

System Shutdown In advance of anticipated system shutdown, each branch supervisor is notified of the scheduled shutdown so that he may terminate his own operation in an orderly fashion. At shutdown time, any terminals and/or branches still open are closed automatically at the finish of the bettor transaction in process.

[illegible] system shutdown, the system sends summary accounting data to the branch office supervisor's terminal and prevents further processing from that branch.

When the network activity ceases, housekeeping activities begin:

1. Bet and pool information to be forwarded to the next day is recorded.
2. Bet records for the day's races are reorganized to include only those requiring payout.
3. Payout records that have passed the system retention date (typically one month) are purged to the unpaid archives file.
4. A message is written to the master system terminal indicating the completion of system shutdown.

During the day's operation, a transmission file is used which contains output messages for the teletypewriter located at the branches. These messages may either be specific messages dealing with a branch's operation, statistics, or liabilities, or may be general broadcast messages such as race results, changes, scratches, closed tracks, and system shutdown schedule.

Additional report information is made available as required and on demand at shutdown. Examples are as follows:

- tickets sold by type/amount, by teller/branch/system;
- cash on hand by teller/branch/system;
- branch liability, when race results are known;
- selected pool data;
- telephone account status.

At the end of the operating day before system shutdown, information items are selected, grouped, and sorted into a new sequence for reports of varying detail, such as:

- system liability report,
- accounting reports by location;
- average bet amount;
- race activity;
- telephone account statement;
- average number and frequency of bets per bettor (telephone);
- bets by track;
- bets by type and location;
- bet cancellation by location;
- payouts by locations;
- purged pay tickets;
- branch office activity comparisons;
- hourly branch office activity.

Fallback, Error Recovery, and Restart The system attempts to preserve data integrity and minimize inconvenience caused by some failures. High priority is given to recovering pool data since the off-track operation is liable, for practical purposes, for the track payout amounts on races where pools are combined. In addition, current bets, track profiles, and statistics must be recovered.

The central system is usually duplexed, allowing considerable equipment failure before any general effect is noted. As more and more units in the central processing system fail, less important functions are successively dropped until the system is just collecting bets, logging them, and pooling them.

One CPU, designated the master, outputs messages to the terminals. The communication controllers attached to the system detect system failures by ensuring that they are polled on a regular basis by both CPUs. Should the master fail, the subordinate immediately becomes the master, while if the subordinate fails, the master merely takes note of the fact and commences to update the subordinate disk files as well as its own.

To minimize the effect of a disk drive failure, each set of disk drives (one per CPU) has two copies of the control program and application programs. Also, if any disk drive fails on the master CPU, it begins to use the corresponding drive on the subordinate. In the event of total failure of both sets of disks, the system is reduced to the input and pooling of bets and logging them on magnetic tape. This tape can be used at the end of the day for the reconstruction of the disk files that should have been created during the day. There are a number of tape drives on each CPU, and if one should fail, the CPU automatically uses another.

If the line printer being used for the output of collations should fail, the computer operator can manually switch the other printer onto the master in place of the defective one.

In the extreme case where both sets of disk drives have failed, or if the same disk drive has failed on both systems, the off-line recovery procedures are executed at day end. The magnetic tape containing a time-sequenced log of the day's betting input is read into the CPU, and the bet messages are written to the various disk files. Once these bet files have been regenerated, it is possible to perform the race result processing. Thus it is possible, via off-line recovery, to achieve the same day-end processing completion as would have been achieved without the equipment failure.

Terminal failures at a branch are recovered through plug-for-plug replacement of a defective terminal with a known good terminal from a central pool.

Current New South Wales System

The system currently installed in New South Wales (N.S.W.) uses specialized hardware to handle the high transaction rates. The system is handling 8000 transactions per minute now and the 1978 projection is 15,000 bets per minute.

The N.S.W. ticket terminal was designed and built by Amalgamated Wire of Australia (AWA). The terminal is key-driven on a numeric keyboard from paper betting slips filled out by the bettor before he reaches the window. A gas discharge display of up to 12 digits displays the bet to the operator during keying. Bets are transmitted bet-at-a-time at 150 bps DC signalling to a remote multiplexer. The printer used is an adapted adding machine print unit. Bet information printed on the ticket is taken directly from keyed data. Throughput is directly dependent on the skill of the operator in getting the data correctly from the customer and keying it correctly.

consists of duplexed 256K IBM 3033-I CPUs driving IBM 3970 Data Set Adapter Units through four IBM 3967 Communications Controllers (with a fifth as standby) on the AWA, Teletype,* and Telex† terminals (Figure 1).

Telephone betting is handled by 96 terminals also supplied by AWA which are a modification of the cash betting terminal.

Each of the four IBM 3967's performs identical functions and handles a maximum of 400 communications lines. Their main functions are as follows:

- Line control procedures for the various terminal types.
- Message buffering between the terminals and the CPU's.
- Code conversion. All CPU outputs to the 3967 are in EBCDIC while the IBM 3967 inputs to the CPU are either EBCDIC or unsigned packed decimal.

All incoming messages are blocked in each IBM 3967, and at frequent intervals the CPU's ask for any completed blocks. On receipt of a block of messages, both central processors first validate each bet, then add it to the appropriate pools, and then generate the bet ticket number, which is sent back to the communications controller for transmission to the terminal. Thus, while the branch is printing the bet ticket, the bet details are being placed into a disk buffer area in the CPU for logging on the appropriate bet file.

Although fully hardware duplexed, on "quiet" race days the system is run in simplex while the second system is used for program development. In case of failure, the second system can be made ready within seconds.

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*Trademark of the Teletype Corporation.
†Trademark.

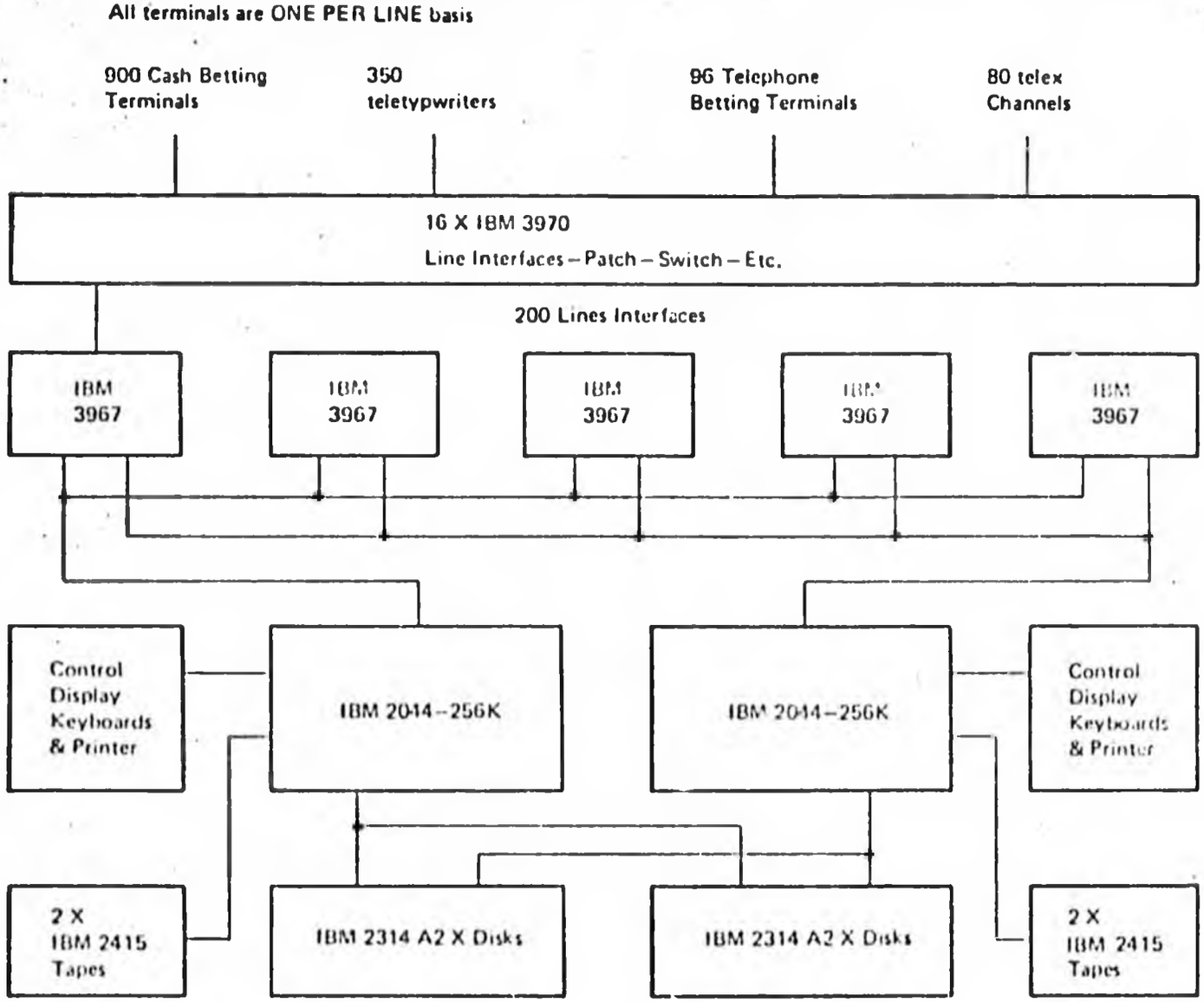


Figure 1. New South Wales TAB System

five drives giving a total capacity of 1.45 million bytes. Of this, 200 cylinders are allocated for bet files, 20 cylinders for telephone betting, and 140 cylinders for winning bets and paid tickets. In addition, parts of two disk drives are used for control program systems residence, applications program residence, and work files.

There are two 30 kb tape drives on each CPU. Their primary purpose is the dumping of disk files at day-end for historical purposes and the reconstruction of a day's betting activities as may be required for audit purposes. During periods of on-line operation, one tape drive on each CPU is used for the logging of all system inputs, to guard against the loss of data in the unlikely event of failure of both disk control units.

The line printer is used to list house total investments at the same time as they are transmitted to the control center. The card reader is used only for the input of meeting and race initialization data at the commencement of each day.

Future Western Australia System

The Western Australia (W.A.) system is scheduled for installation in late 1975. To increase flexibility and throughput, they are taking a different tack entirely—himself by using optical mark reading and standard system hardware (Figure 2).

The bettors place bets by marking their selections on IBM System/3-size paper cards (Figure 4, or longer card stock for complex bets) and inserting them directly into the terminal. The terminal, an IBM 5934-102 Ticket Terminal (Figure 3), reads the pencil marks and transmits them at 1200 bps to a remote multiplexer. After verification and editing, print information is returned over the teleprocessing line to the terminal to print the bettor's selections on the same card (Figure 5). Besides the entry method, a second major difference is that the system also prints a unique machine-readable bar code on the betting ticket, which identifies this particular bet. Invalid bet tickets are returned with an error message across the top, describing the error. Reasons for rejecting tickets include incomplete information (such as only one horse marked for a daily double, scratched horses, invalid bet amounts and types, race already closed).

After the race has been run, the bettor inserts his bet card back into the same terminal (or any terminal in the system), and this time the previously printed bar code is read in conjunction with the marked information. This bar coded serial number is used to look up the bet in the win

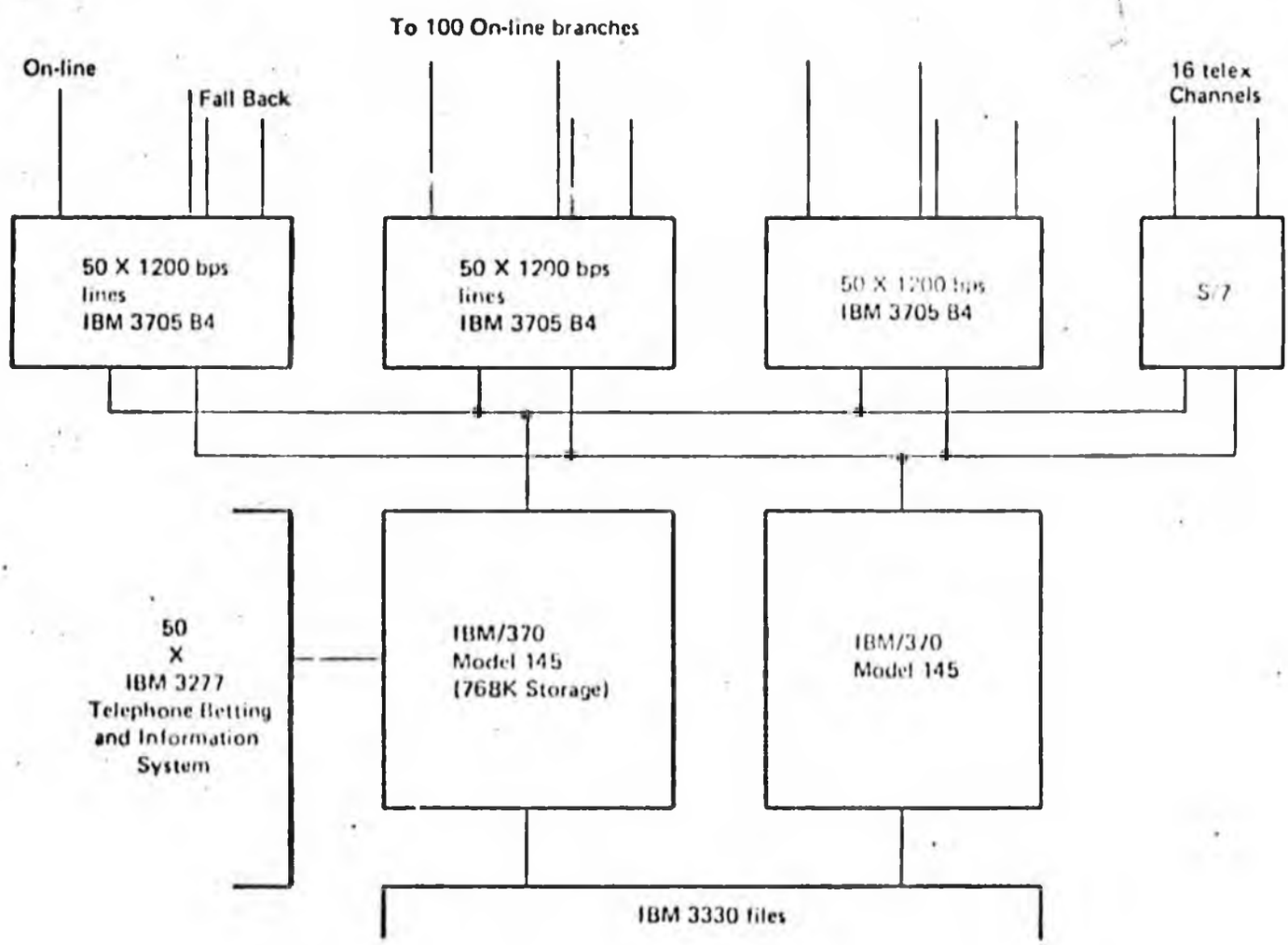


Figure 2. Western Australia TAB System

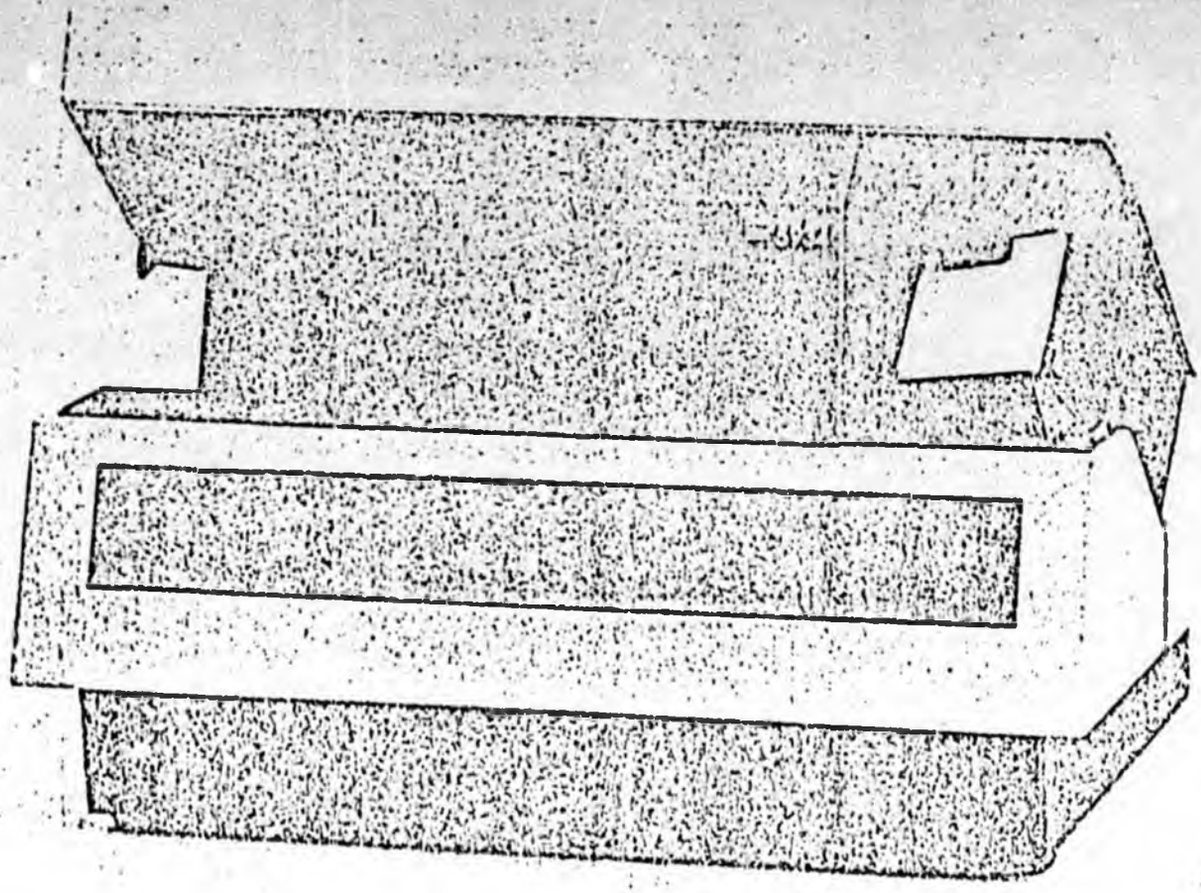
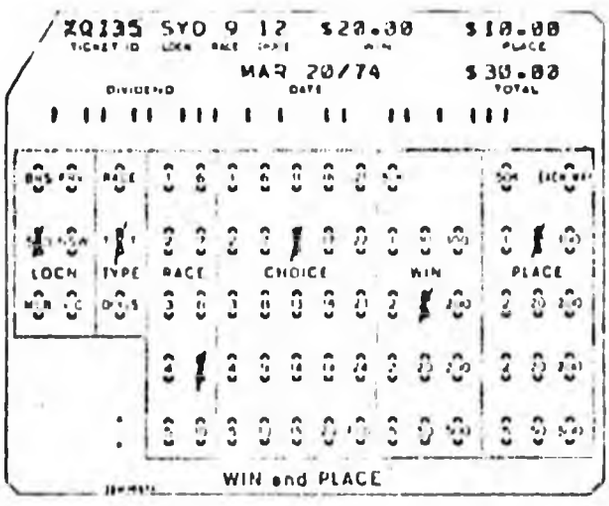


Figure 3. IBM 5934-TO2 Ticket Terminal

Card 1 shows the marking for a trotting race at Sydney for a horse #12 in the ninth race. A 20 dollar bet to win and a 20 dollar bet to place. This card has not been entered into the reader/printer.

Figure 4. Marked Card



Card 2 shows the marking and printing with the bar code on the third line. The presence of the printing indicates this bet has been entered and accepted as a valid bet.

Figure 5. Validated Card

file. The returned information printed on the card indicates "Not a winner," or the amount the bettor won, or (in the case of fraud) it prints "already paid" (Figure 6).

The bettor can place a number of bets on one card (for example, bet horses 4, 5, and 9 each to win for $2), and he can place a number of bet cards together into the 5934 hopper. In fact, he can mix previous winning bet cards from previous races with bets on future races and the self-totalizing ability of the system will tell the operator the net amount to pay out or collect.

At the branch office end, the only change for new bet types is new card stock; no modification is required to installed hardware. In addition, the key-driven terminal requires one operator per terminal, whereas two 5934's can be driven by one operator making change at one machine while the other machine is processing a different bettor's cards.

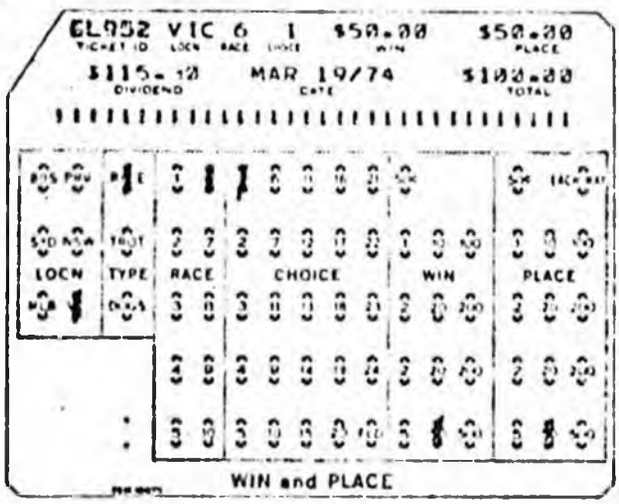
Besides these obvious features, the Optical Mark Read (OMR) approach offers a reduction in operator errors, increases customer confidentiality, reduces the total number of betting tickets through the use of multiple bets, provides the operator with totals, and provides horse names on betting tickets as an aid for bettors.

One hundred metropolitan branches equipped with IBM 5934 Terminals will connect to three IBM 3705 Communications Controllers. In standard operation, each 3705 will support one-third of the on-line agencies. However, in case of a 3705 failure, each of the other two provides fall-back for half the load of the failing unit.

A System/7 provides an interface to 16 Telex lines. Remote betting offices will transmit their collated holdings via Telex to the control center at event close time.

IBM 3277 Display Stations are used to service telephone betting customers and for the control function.

The system will eventually be required to process 6000 bets per minute. This represents 100 transactions per second.



Card 3 shows the marking and included in the printing is the dividend paid for this bet. The bar code has been voided.

Figure 6. Voided Card

In the IBM System 370/145 CPUs, a high-priority partition is required to process transactions from the terminals in the agencies. This partition processes bets, updates collation tables, controls the logging and retrieval of bets, and communicates to the Management Information System CICS partition.

As many as four IBM 3340 Direct Access Storage Facility disk drives will hold the ticket file to minimize contention during critical payout periods. Other files may be resident on the drives provided low access requirements are specified for them. Transactions are logged on the IBM 3420 Magnetic Tape Units for audit and reconstruction purposes.

The IBM 3705 Communications Controllers are attached to the System/370 processor channels and provide the teleprocessing line control and processing function. Each controller can control 50 1200-bps leased lines. Should one unit become unserviceable, then lines from this unit can be switched to other serviceable units.

The controller executes a network control program, which provides a wide range of functions and relieves the processing unit of the teleprocessing workload. The network control program also provides such standard functions as control character recognition, line-timeout control, error checking, code translation, and dynamic buffering.

Conclusion

To handle the widely fluctuating high volume of bets from the general public, an OTB system must have the three characteristics provided by the Australian systems described in this paper:

- Unique application-oriented devices to eliminate expanded teller requirements (and human errors).
- A data processing and telecommunications capability to handle peak loads.
- A completely reliable backup and recovery system to protect both bettors and OTB management. ◻

Stephen L. Dunk is Manager of Custom Products and an Advisory Engineer at the IBM Canada Ltd. Laboratory in Toronto, where he is responsible primarily for planning and developing unique product solutions for the gaming industry. Since joining IBM he has held various key positions in the manufacturing and laboratory functions. His major contributions include development of a corporate Process Control and Automated Test Language and a family of standardized controllers used in computerized test applications. He has been with IBM since his graduation from the University of British Columbia in 1963. Currently he is completing an advanced degree in the Computer Science faculty at the University of Toronto.

Dunk is a member of IEEE and the IEEE Computer Society. He has received an IBM Outstanding Contribution Award and has been responsible for a number of invention disclosures published in the IBM Technical Disclosure Bulletin. His current interests include artificial intelligence, particularly with respect to automatic program proving and voice recognition.

HB

381

#

TELEGRAM

ACA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

;

1975 MAY 3 PM 2 35

18002 POM GOLOVIN ALASKA 15 05-03 1120A BDT

PMS REP BOB BRADLEY

266

CHAIRMAN HOUSE COMMERCE COMMITTEE

JUNEAU

THE GOLOVIN CITY COUNCIL HAS EXPRESSED THEIR OPPOSITION TO

THE PASSAGE OF HOUSE BILL 381.

GOLOVIN CITY COUNCIL, SECRETARY STANLEY AMAROK

TELEGRAM
ONS, INC.
40
99801

MMM

13006 KETCHIKAN ALASKA 15 04-24 1130A PDT 1975 APR 24 AM 11 34

PMS BOB BRADEY CHAIRMAN COMMERCE COMMITTEE

2429

POUCH V

Fab

JUN

WEBBER AIRLINES INC STRONGLY OPPOSES HOUSE BILL 381.

JACK R SWAIM, PRESIDENT

BERING STRAITS NATIVE CORPORATION

P.O. BOX 1008 · NOME, ALASKA 99762 · (907) 443-5252

April 30, 1975

Representative Bob Bradley
Chairman
House Commerce Committee
Pouch V
Juneau, Alaska 99811

Representative Terry Gardiner
Chairman
House Judiciary Committee
Pouch V
Juneau, Alaska 99811

Dear Representatives Bradley & Gardiner:

Gentlemen, House Bill No. 381, "An Act relating to the activities of the Alaska ~~Transportation Commission~~; and providing for an effective date", has been brought to my attention.

In all honesty, the proposed restrictions that would be imposed on the Air Taxi Services would have a detrimental impact and adverse effect towards the people within the Bering Straits region. They rely on travel and freight service that is needed and essentially, in addition to the scheduled airline, that is presently operating out of Nome. From past experience, the scheduled airline has a heavy demand and schedule that they must meet to give the villages adequate service.

If House Bill No. 381 is passed, it will impose unnecessary hardship, inconvenience, and an additional expense to the populace; that is so dependent on the Air Taxi Service in addition to scheduled airline service, to and from the villages for travel and freight service.

The Air Taxi Services that serve the Bering Straits region have given commendable, dependable, reliable, and personal services to all concerned. Their availability to the BSNC staff and Board for travel has been a convenience and a money saver to us. If House Bill No. 381 is passed, it would create a monoply controlled by one party. This would also have a detrimental impact and adverse effect toward the Air Taxi Services throughout Alaska. Competition is a must to counter-balance the quality of services rendered by the airlines.

The Bering Straits region would like for you, gentlemen, to have it go down on record that we strongly oppose House Bill No. 381 and urge that it is defeated when it is brought to the floor.

Sincerely yours,

Jerome Trigg
President

JT:lm

cc: State Senator Frank Ferguson
Representative Larry Davis
Air Taxi Operators, Bering Straits region
NANA Regional Corporation

29 April 1975

Bob Bradley
Chairman, House Commerce Committee
Alaska State House of Representatives

Dear Sir:

The City of Koyuk strongly urges defeat of House Bill #381. We feel that providing the scheduled air ~~carrier with such~~ an advantage would not only be unfair to small air carriers who serve our village, but would also result in poorer service and limited freedom of action. We feel that this bill in its essence is contrary to the principal of free enterprise. We feel that the 5 day a week schedule is in itself a dubious proposition as we have evidenced that the scheduled air carrier which serves our village quite often does not appear on scheduled days, while the smaller air carriers do come.

Sincerely,

David Otten Sr.
David Otten, Mayor
City of Koyuk

DO/tgd

cc: Senator Frank Ferguson
Representative Larry Davis

The undersigned council members and citizens of Koyuk, urge the defeat of House Bill #381.

Thomas M. Davis
Stanley J. Adams
Lola Okitkon
Albert D. Charles
Leslie A. Charles
Mary A. Charles
Margaret Charles
Charles Charles
Dennis Adams
Dan Davis
Kenneth Dewey Sr.

Elsie Okitkon
Gabriel Okitkon
Ed. Kinoktook
Annie Kinoktook
Stella Dan
Ed B. Kinoktook Jr.
Richard A. Nanuk
Roger Nasuk
Loleta Nasuk
Irene Kavairlook
Albert Kinoktook

Alfred Adams
Ethel Adams
Grace Kavairlook
Henry Kavairlook
Lorena Nassuk
Dan Nassuk Sr.
Karen Nassuk
Charlie Atmik
Stanley Charles
Donald L. Gillespie
Lynn A. Gillespie

John N. Patterson
Box 7
Craig, Alaska 99921
May 2, 1975

Honorable Robert Bradley, Chairman
Commerce Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99801

Dear Mr. Bradley;

I strongly urge you to not support H. B. 381. If this bill becomes law it will set communties like Craig back several years.

Letting only scheduled carriers offer seat fare basis Flights strangles competing non scheduled carriers. It also reduces service to the people of the many small communities in Alaska. Why change a good thing for something less. The way it is now a person can fly to town almost anytime he chooses and go in by fare basis. Isn't this what we have been striving for all these years, better transportation for Alaskans.

I am sending copies of this letter to Representatives Oral Freeman, Terry Gardiner and Governor Hammond hoping they see that supporting H.B. 381 will be a giant step backwards for flying Alaskans.

Sincerely

John N. Patterson

c.c.
Representatives
Terry Gardiner
Oral Freeman
Governor Jay Hammond

May 1, 1975

Mr. Robert Bradley
Chairman Commerce Committee
Pouch V
Juneau, Alaska 99801

Dear Congressman Bradley:

We Don't need anymore Government interference with free enterprise. DO NOT pass house bill 381, that proposes to eliminate seat fare rates for Air Taxis to points being served by scheduled carriers.

Sincerely,

Nelda C. Lynch

Teacher

May 1, 1975

Mr. Robert Bradley
Chairman Commerce Committee
Pouch V
Juneau, Alaska 99801

Dear Mr. Bradley:

I am opposed to House Bill 381 that proposes to eliminate Air Taxis being allowed to charge seat fares to points served by scheduled carriers.

Such action would severly limit competition and be a great inconvenience to The Traveling Public, who are frequently better served by the Air Taxis than by the scheduled carriers.

Sincerely,

Sam Nickuson Jr
Box 73
Klawock Alaska

May 1, 1975

Mr. Robert Bradley
Chairman Commerce Committee
Pouch V
Juneau, Alaska 99801

Dear Mr. Bradley:

HB 381 is obviously being pushed by a FEW scheduled air Carriers for their own economic benefit.

The detrimental effect on The Traveling Public should be considered. Travelers like to know what a trip is going to cost precisley. Seat fares give them this cost spelled out in easy to understand terms. Don't eliminate seat fares for Air Taxis to points served by scheduled Air Carriers. Many of the problems brought on by scheduled carriers are a result of poor service not lack of potential customers.

Sincerely,

Dr. Morrow Lynch
Supt.
Klawock Public Schools
Klawock, Alaska - 99925

29 April 1975

Mr. Robert Bradley, Chm.
Commerce Committee
Pouch V
Juneau, Alaska 99801

Dear Mr. Bradley:

As a minister serving bush communities in Southeast Alaska, I am opposed to House Bill 381 which would severely restrict air taxis' use of seat-faces on scheduled routes. I normally find it more convenient to travel with the air taxis than with scheduled carriers, because I get better service.

Very truly yours,
Clarence A. Carland Pastor
Craig - Hydaburg Parish (Presbyterian)
Box 29
Hydaburg, AK 99922

Mr. Robert Bradley
Chairman Commerce committee
Pouch V
Juneau Alaska 99801

HB 381 is obviously being pushed by a few scheduled air carriers for their own economic benefit

The detrimental effect on the Traveling Public should be considered. Travelers like to know what a trip is going to cost precisely. Seat fares give them this cost so that out is easy to understand Terms Don't eliminate seat Fares for air taxis. To points served by scheduled Air Carriers. many of the problems brought on by scheduled carriers are a result of poor service. not Lack of potential customers.

Betty Bread.

May 1, 1975

Mr. Robert Bradley
Chairman Commerce Committee
Pouch V
Juneau, Alaska 99801

Dear Congressman Bradley:

We Don't need any more Government interference with free enterprise. DO NOT pass house bill 381, that proposes to eliminate seat fare rates for Air Taxis to points being served by scheduled carriers.

Sincerely,

Frances Jackson

REVILLA FLYING SERVICE
P. O. Box 2516
KETCHIKAN, ALASKA 99901

Box 54
Klawock, Ak
99925

April 30, 1975

Mr. Robert Bradley
Chairman Commerce Committee
Pouch V
Juneau, Alaska 99801

Dear Mr. Bradley:

HB 381 is obviously being pushed by a FEW scheduled Air Carriers for their own economic benefit.

The detrimental effect on The Traveling Public should be considered. Travelers like to know what a trip is going to cost precisley, seat fares give them this cost spelled out in easy to understand terms. Don't eliminate seat fares for Air Taxis, to points served by scheduled Air Carriers. Many of the problems brought on by scheduled carriers are a result of poor service- not lack of potential customers.

Sincerely

Martin J. Fabry
Verne L. Fabry

May 1, 1975

Mr. Robert Bradley
Chairman Commerce Committee
Pouch V
Juneau, Alaska 99801

Dear Mr. Bradley:

I am opposed to House Bill 381 that proposes to eliminate Air Taxis being allowed to charge seat fares to points served by scheduled carriers.

Such action would severly limit competition and be a great inconvenience to The Traveling Public, who are frequently better served by the Air Taxis than by the scheduled carriers.

Sincerely,

Frances Jackson

REVILLA FLYING SERVICE
P. O. Box 2513
KETCHIKAN, ALASKA 99901

May 1, 1975

Mr. Robert Bradley
Chairman Commerce Committee
Pouch V
Juneau, Alaska 99801

Dear Mr. Bradley:

HB 381 is obviously being pushed by a FEW scheduled air Carriers for their own economic benefit.

The detrimental effect on The Traveling Public should be considered. Travelers like to know what a trip is going to cost precisley. Seat fares give them this cost spelled out in easy to understand terms. Don't eliminate seat fares for Air Taxis to points served by scheduled Air Carriers. Many of the problems brought on by scheduled carriers are a result of poor service not lack of potential customers.

Sincerely,

Frances Jackson

REVILLA FLYING SERVICE
P. O. Box 2516
KETCHIKAN, ALASKA 99901

Paul H. Breed
d/b/a FLAIR AIR
Box 63
Klawock, Alaska 99925
April 24, 1975

Representative Robert Bradley
Chairman Commerce Committee
Pouch V
Juneau, Alaska

Dear Mr. Bradley:

House Bill 381 is obviously being pushed by The scheduled Air Carriers, to give them a competitive advantage over unscheduled Air Taxi's.

They already have the Tariff protection that no Air Taxi can charge less, to the points they serve, tnan the scheduled carrier.

They now want to eliminate unscheduled Air Taxis being Allowed to use seat fares to or from the points they serve. This effectively would give them almost a monopoly, in well traveled areas, because the public wants the convenience of seat fares and to know exactly what its going to cost to go from A to B. A seat fare tells them this. On a Charter basis they don't know since the flight time varies with the weather and the cost per person varies with the number of passengers on the aircraft.

Don't try to bolster a Few scheduled Air Carriers on routes where no schedule may even be necessary at the expense of healthy Air TAxi businesses, that the puolic is supporting.

I've shown The Provisions of 381 to several of my passengers and they were all horrified that The State was even considering medling in such an area and virtually eliminating their right to choose who they can fly with, through economic manipulation.

The CAB eliminated The Publics choice of what airline they flew with when they gave it to Alaska. Don't let The State be guilty of eliminating the publics choice of what Air Taxi they fly with.

Sincerely;

Paul H. Breed dba FLAIR AIR

cc: Governor Hammond
cc: Terry Gardner
cc: Oral Freeman

PB/bb

April 29, 1975

Dear Chairman Bradley,

This letter is to acquaint you with my thoughts on HB 381. The bill to eliminate Air taxi seat fare on schedules routes. Don't even let it get out of committee. I don't know whose back of such a bill, but I would be very suspicious.

How would you like to fly with a scheduled carrier that can't keep its pilots and is getting green hands regularly. One of the veteran pilots is nicknamed "Crash Bob" because he has had so many close calls.

This same scheduled carrier does not follow the schedule unless he has 3 passengers. That's not scheduled. Also the carrier is not known for its good maintenance.

Today I checked my flight plans to Sitka. The scheduled carrier had me leaving at 8:45am to catch the 5:05pm jet to Sitka. I'm going with another one at 3pm. Our scheduled carrier is not satisfactory with all the competition it's got. What would it be like with no competition. I shudder to think.

Mary Schultz
Klawock Alaska

TO Rep. Bob Bradley
Alaska Legislature
Juneau, Alaska 99801

FROM Phone: 789 9160, Juneau
LAB FLYING SERVICE INC.
BOX 272
HAINES, ALASKA 99827

SUBJECT: House Bill No. 381

DATE April 17, 1975

FOLD

Dear Bob:

We are very much opposed to this bill. It would greatly reduce the service to small communities. It would also be detrimental to our business as the customer always wants to know the exact amount his trip will cost him. If this bill passes, we would have to tell him that the price from Haines to Juneau could be anything from $16.66 to $75.

We have several witnesses from Haines and Juneau who are anxious to testify on this bill, so we would appreciate your ~~letting~~ us know of any hearings.

We can be reached at the phone number above.

PLEASE REPLY TO → SIGNED Thank you. Lou Bennett Lou Bennett

HB 381

DATE | SIGNED

GRAYARC CO., INC., BROOKLYN, N. Y. 11222

THIS COPY FOR PERSON ADDRESSED

CRAIG CITY SCHOOL DISTRICT

STANLEY L. BIPPUS, Superintendent

P O. Box 166
CRAIG, ALASKA 99921

May 6, 1975

H. B. 381

Mr. Robert Bradley
Chairman - Commerce Committee
Pouch V
Juneau, Alaska 99801

Dear Mr. Bradley:

I would like to comment on a proposal that I have heard is being considered - i.e.- the elimination of seat fares for air taxis not licensed as the scheduled air carrier.

I look upon this move as a way to cut competition and make it easier for the scheduled air carriers to make ends meet, which I agree, is important in order to continue providing scheduled air service. However, the scheduled carriers in my opinion, need not suffer from their competition if the quality of service to the public remains the same. What we have seen here is an air taxi providing friendly, amenable service and the scheduled air carrier decreasing their service (in terms of smiles, friendly assistance, etc.) apparently with the feeling that their being scheduled would guarantee them customers.

The air taxis already cannot charge less than the scheduled carrier, this in itself seems to be plenty. I would certainly be opposed to a further reduction in competition, because instead of increasing services for the people, decreasing competition decreases services in a capitalistic system.

Sincerely,

James W. Paul, Principal

Skyways flies on schedule again

Southeast Skyways has resumed its regular schedule of two flights a day, and the office at the airport is open regularly again, Marsha James, agent for the airline, reported today.

However, she said, routing for flights may vary: depending upon the traffic, flights may go Juneau-Haines-Skagway-Juneau, or Juneau-Skagway-Haines-Juneau, or Juneau-Haines-Skagway-Haines-Juneau.

The council went on record as opposing House Bill 381 which would prohibit air taxi services to charge seat fares on runs which are served by a scheduled carrier at least five days a week. The route between Haines and Juneau is such a one.

HOUSE BILL WOULD STOP AIR TAXI SEAT FARES

House Bill 381, introduced into the Alaska House of Representatives, would not permit air taxi operators to charge seat fares on runs between points served at least five days a week by a scheduled carrier.

The legislation would affect air taxi operators who fly Haines to Juneau. Both LAB Flying Service and Fox Air Service/Capital Air presently charge seat fares.

Mrs. H. A. Kebert
P.O. Box 89
Haines
Alaska 99827

28 April 1975

Mr. Robert Bradley
Chairman of Commerce Committee
Alaska Legislature
Juneau, Alaska 99801

Dear Sir:

And just who was the un-named (brave soul ?) that introduced House Bill #381 into the Alaska House of Representatives?

House Bill #381 reads as follows from Chilkat Valley News, 4/24/75: Quote "House Bill #381, introduced into the Alaska House of Representatives, would not permit air taxi operators to charge seat fares on runs between points served at least 5 days a week by a scheduled carrier." Unquote. HOW ABOUT THAT?

Is it not customary for the Representatives name to appear with his Bill in print for public knowledge?

Perhaps in this instance - it is the fault of our newspaper, but I sincerely doubt that.

What has or is happening to our free enterprise system?

When will some Representive get a wild notion to take away our ferry system to force us to take the "scheduled carrier"?

Our present "scheduled carrier", when "they" took over about a year ago, stated "they" would have i.e. :-

5 flights daily - Juneau, Haines, Skagway, Juneau - Juneau, Skagway, Haines, Juneau, etc. to enable passengers departing from Juneau to connect with other airlines.

Then - in a very short time of 5 flights daily "they" cut to 3 flights daily

Then - 2 flights daily

Then - 1 flight daily and when "they" did that - we at this part of Southeast Alaska were forced to phone Juneau to make reservations for "their" 1 daily flight per day (if they were able to fly at all on their 1:45 PM flight) and for connections with other airlines as "they" closed their office at 4 Mile. "They" were closed only for a few days but it was very inconvenient

and annoying.

I am not aware as to how Skagway or other communities, up and down the line have to manage but I am sure they feel the same as we do.

Do you know that a person can travel to lower California from Haines in 1 day by connecting with the early morning flight out of Juneau - via private carrier these days?

One is unable to do that with 1 or 2 flights daily with our "scheduled carrier" which just commenced 2 flights daily recently, again.

You are forced to overnight either in Juneau for the early morning flight or overnite in Seattle on the afternoon flight from Juneau to go south with our present "scheduled carrier" and "their"present 2 flights daily.

What does one do in case of "EMERGENCY" whereas it may be a matter of LIFE or DEATH?

I, for one, hope that I shall not be forced to travel with our present "scheduled carrier" in time to come.

I'll take the ferry first (if we still have a ferry system) if I can no longer charter a private carrier of our choice.

It would be cheaper by ferry and since you would have to overnight in one place or the other - what would be the percentage of buying a 30 minute ride via "scheduled carrier" to Juneau?

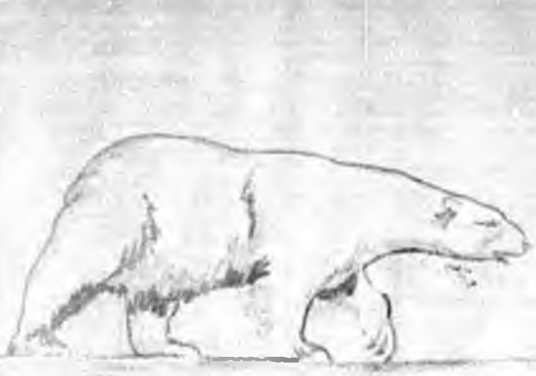
P. S.

Neither myself or my husband are affiliated, in anyway, with any private carrier.

Sincerely,

Marjorie P. Kebert

Mrs. Marjorie P. Kebert



FOSTER AVIATION

BOX 1028 • NOME, ALASKA 99762 • PHONE: 907-443-5292

Bob Bradley
Chairman, House Commerce Committee
Alaska State House of Representatives

Dear Sir,

This company strongly urges defeat of House Bill #381. It is a blatant attempt by the scheduled air carriers to ~~completely monopolize~~ the air traffic market to their advantage at public expense.

Foster Aviation revenue from individual fares in CY74 was $73,564, i.e., approximately 1500 to 2000 passengers were carried in the Nome village area by individual tariff rate. A majority of these passengers were accomodated on aircraft chartered by other agencys that had seats available. Thus, if House bill #381 becomes law, then the scheduled air carrier serving Nome area villages need only schedule each village five times a week to completely monopolize village traffic, since it would be illegal for us to provide passenger and cargo rates. We would be limited exclusively to charter service. Not only would it be detrimental to our company, but the villages and Nome would suffer, e.g., if a passenger misses a scheduled flight to a village for any reason (i.e., aircraft full already or his schedule doesn't coincide with the scheduled flight, etc.), he would have to wait for the next scheduled flight or else charter an aircraft, even if we already have an airdraft on charter with seats available going to his village. Also, our aircraft frequently pick up individual fares from the villages while on charter. The law would make this service illegal. The law if enacted would force the individual passenger to fly only the scheduled air carrier and, if the passenger for some reason is unable to make that flight, forces him to wait for the next schedule or else charter an aircraft even if this company already has seats available on another aircraft on charter. Thus, the law forces a passenger to fly with a particular air carrier, leaving him no freedom of choice, with the distinct possibility of obtaining either poor service at fare rates with the schedule or fast service at charter rates--- even if the cost is unnecessary. Also, if the bill is enacted and a five day per week schedule is made by a carrier, the question arises: How is the public to be served by fare rates when a particular village(s) is not on a schedule for the other two days of the week? Individuals would be forced to charter.

At present, an individual in the Nome area has the freedom of choice of travelling by fare with the Munz schedule or via Foster Aviation, Nome Flying Service, Northern Aviation, or Teller Air Service, Olson & Sons, or Unalakleet Air Taxi if in the area.

His chances of obtaining fare rates when he's ready to travel are obviously much greater with seven air carriers then if he is forced to travel fare rate if Munz is the only carrier.
Excluding Kotzebue, there are seven air carriers serving the Seward Peninsula. House Bill #381 would effectively limit all passengers travelling at tariff rates to Munz Airlines. In this respect, one of the prime concerns of the Alaska State Legislature should be to grant air carrier authority in order to serve and not to restrict public necessity and convenience. In this regard, the small air carrier would suffer in this attempt at public expense by the scheduled air carriers to obtain more business for themselves through legislation and not through the concept of free enterprise and competition.
In summary, the bill if enacted would serve to only one advantage---that of the scheduled carrier. This would be detrimental to the air taxi operator and more importantly to the public, which would be faced with:

1. LIMITED FREEDOM OF CHOICE with whom to fly at fare rates.
2. (a) LIMITED FREEDOM OF ACTION OUT OF NOME since to fly at fare rates one must wait for a schedule even if knowing that another aircraftwould be available more convenient to one's own schedule.
   (b) LIMITED FREEDOM OF ACTION OUT OF THE VILLAGES since to fly at fare rates one must wait for a schedule not knowing if there would be room for you once the aircraft stopped at your village, due to the unpredictable rate of village passenger traffic, even if knowing that another aircraft not on schedule was available and could accomodate you.
3. POOR SERVICE, IF DESIRING FARE RATES, since one would have to gear his own schedule to that of the scheduled carrier, even if other aircraft were available convenient to you.
4. HIGHER RATES, since if one could not make the scheduled flight, he would be forced to charter an aircraft, even it other aircraft on charter with available seats were already going to your desired destination.

We cannot perceive how legislation, with such illogical and unreasonable make-up, advantageous only to large air carriers and detrimental as it would be to bush areas, could even be proposed. This company vehemently opposes House Bill #381 and strongly urges that it be defeated.

Respectively,

NEAL R. FOSTER
MANAGER, FOSTER AVIATION
28 APR 75

cc: All members, House of Representatives
Senators Bradley, Ferguson, Sackett, Rodey
Air Taxi Operators, NW Alaska

HAINES CHAMBER OF COMMERCE

Haines, Alaska 99827

NORTHERN GATEWAY TO THE ALASKA MARINE HIGHWAY

HOME OF THE FAMOUS CHILKAT DANCERS

April 18, 1975

Bob Bradley, Chairman
House Commerce Committee
Alaska State Legislature
Juneau, Alaska 99801

Dear Bob:

The Haines Chamber of Commerce would like to go on record as opposing HB #381 as being highly descriminatory to the small air taxi operator, and a definite cut-back of service to the traveling public.

It is felt that such a law would put the small operator out of business and will also prove to be a real disservice to the citizens of smaller communities. Lord knows it is hard enough to get around in this country without making it more difficult. Most of us cannot afford to charter a plane and simply would not make the trip if we had to pay an exhorbitant price to get there. Timing is important, too--making connections with jet schedules and being able to do business in Juneau without the cost of an overnight stay

We would appreciate your help in seeing that this bill does not pass--hopefully ~~does not even~~ get out of committee. You have many friends in Haines, don't let them down.

Sincerely

HAINES CHAMBER OF COMMERCE

Mimi

Mimi G. Gregg
Secretary

At the present time it appears that no action will be taken on the bill.
Thank you again for writing.

Sincerely,

Bob

Dear Mimi,

Just a short note to let you know that I received your letter regarding HB# 381. ~~The bill is in my committee and I do not plan to take any action on it this year.~~ Staying it before the committee at anytime.

The bill is in my committee and I do not have any plans to bring it up before the committee.

~~Thanks for the letter. Let me know if there's anything~~

I'm always glad to help my friends in Haines.

Sincerely,
Bob

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K — STATE CAPITOL
JUNEAU 99801

April 9, 1975

Representative Bob Bradley
Chairman
House Commerce Committee
Alaska State Legislature
Pouch V
State Capitol
Juneau, Alaska 99811

Re: HB 381 - An Act relating to the Alaska Transportation Commission

Dear Mr. Bradley:

The Alaska Transportation Commission has asked that I bring certain information to the attention of your committee to explain the purpose of HB 381.

In 1972 the Legislature amended the Air Commerce Act, and the amendment had the effect of substantially liberalizing the operations authorized for air tax operators. In their administration of the act since its amendment, the commission has found that there is considerable reluctance on the part of many carriers holding unrestricted authority to limit their operations voluntarily in order to conform to the commission's interpretation of the type of service authorized for each carrier.

The commission has sought during the past several years to strengthen the concept of state certificated scheduled air carrier service. It is their opinion that this concept can have the effect of providing more dependable service to rural communities at a reduced cost. In order to be viable, however, the commission must have authority to protect the scheduled carriers' routes. Adequate authority does not now exist in the present statutes.

The need for strengthening intra-state scheduled carrier service is particularly important at this time when the service is particularly important at this time when the Civil Aeronautics

Board (CAB) is increasing their pressure on federally certified carriers to reduce their requirement for federal subsidy by withdrawing from marginally profitable routes. During the past two years there has been a substantial decrease in the number of points served directly by both Alaska and Wien Airlines. The commission is also being required to assume a greater responsibility for regulating intra-state air commerce. This bill would have the effect of strengthening the commission's authority to protect intra-state scheduled carriers and provide viable service on a regular basis for small rural communities.

The principal problem which has arisen particularly since the beginning of pipeline construction, is that carriers, both scheduled and air taxis, have been providing service between points on routes certificated to other carriers. This has had the effect of reducing the load factors of the certificated scheduled carriers and promoting a reluctance on the part of air taxi operators to compete for longer term charter business because they do not wish to publish reduced or special term rates applicable to a particular contract.

The competition with the scheduled carriers has been intense and has forced some operators to request suspension of marginal traffic routes. This has had the effect of depriving communities of scheduled service and making them dependent upon air taxi carriers, frequently involving substantially increased expense and greater inconvenience.

The proposed bill, which would prohibit air taxi operators from charging individual fares between scheduled points, does not restrict them from offering charter service between these points if it is otherwise authorized by their certificate.

Sincerely yours,

AVRUM M. GROSS
ATTORNEY GENERAL

By: Gerald O. Williams
Assistant Attorney General

AMG:jf

HB

396

HB 396

Tape #
29

Date
4/17

"An Act relating to the sale of prepackaged non-narcotic, non-prescription medicines and drugs."

COMMITTEE REPORT

4/8/75 HOUSE FINANCE

Mr. Speaker: Date _____

The Committee on COMMERCE has had HB 396 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other" take also to judiciary comm.

Members signing the Majority report:

L S Bradley

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

L S Bradley Chairman

LAW OFFICES OF
FAULKNER, BANFIELD, DOOGAN & HOLMES
SUITE 201, 311 FRANKLIN STREET
JUNEAU, ALASKA 99801

TEL. 586-2210
AREA CODE 907

HERBERT L. FAULKNER (1882-1972)
NORMAN C. BANFIELD
FRANK M. DOOGAN
MICHAEL M. HOLMES
RANDALL J. WEDDLE
WILLIAM B. ROZELL

JAN VAN DORT
LAWRENCE T. FEENEY
CHARLES N. DRENNAN

March 14, 1975

Tom:
Talk this over to Legis. affairs - ask Sen. Ketubka about it - FIRST

The Honorable Bob Bradley
Chairman, House Commerce Committee
Pouch V
Juneau, Alaska 99811

Re: Sale of non-narcotic, non-prescription and prepackaged drugs.

Dear Mr. Chairman:

My associate Jan Van Dort has gone east for medical attention and is expected to return in 10 days.

He told me had had talked to you about the Commerce Committee introducing a bill on the above subject. The bill has now been drafted and I attach three copies.

I would appreciate the opportunity of appearing before your Committee to explain the purposes of the bill or attend any hearing unless the Committee is satisfied it does not need any further information.

I would like to be notified when the bill is introduced to the legislature.

Thanking you for your cooperation and consideration in this matter, I remain

Very truly yours,

N. C. Banfield

NCB/aw
Enc.

cc: William Bailey

STATEMENT IN SUPPORT OF ALASKA H.B. 396

Alaska H.B. 396 is a bill intended to update current law relating to the sale of non-narcotic, non-prescription, over-the-counter (OTC) medicines (copy attached). Passage of Alaska H.B. 396 will assure that such OTC medicines which are determined by the Federal Food and Drug Administration (FDA) to be generally recognized as safe and effective and determined by the Alaska Commissioner of Health and Welfare to be safe for sale can be marketed in a wide variety of drug -- and general merchant -- outlets in Alaska. These medicines include such well-known products as Bayer Aspirin, Bufferin, Vicks, Dristan, Contac, Murine and the like.

There are a number of additional important reasons why Alaska H.B. 396 should be enacted:

1) In 1972 the Federal Food and Drug Administration began a comprehensive scientific review of all over-the-counter medicines by panels of experts. The findings from this review -- will determine those OTC medicines which are generally recognized as safe and effective by the panels and FDA and thus may be lawfully sold over-the-counter without a prescription. Passage of Alaska H.B. 396 would incorporate the results of this Federal review into the Alaska Pharmacy Act thereby assuring that Alaskan law will always be up-to-date on this point.

2) Passage of Alaska H.B. 396 will mean that Alaskan citizens will always have safe and effective non-prescription medicines readily available and at convenient locations -- something which is especially important to those living in rural and semi-rural areas, but helpful as well to urban and suburbanites who shop in supermarkets, department and variety stores, etc.

3) Passage of Alaska H.B. 396 will bring about the lowest possible prices on such important health aids by assuring the widest possible competition -- very important during a period of inflation.

4) Passage of Alaska H.B. 396 will guarantee that retailers -- drug and non-drug alike -- can continue to take advantage of modern cost-saving merchandising techniques such as self-service.

In summary, Alaska H.B. 396 is a timely and important bill for the 1975 Session. It is a measure which will spell out clearly the legislature's determination that:

-- non-narcotic, non-prescription OTC medicines approved the the Federal Food and Drug Administration as safe and effective and determined by the Alaska Commissioner of Health and Welfare as safe for sale can be sold by a wide variety of retail outlets in Alaska.

-- the public's right to buy products helpful to them in self-care at convenient locations and competitive prices will be assured.

-- the results of a comprehensive Federal scientific review of all non-prescription medications will be fully incorporated into Alaska law.

Passage of Alaska H.B. 396 will represent an important assurance from the state legislature to all Alaskan citizens that low-cost, safe and effective non-prescription medicines will be available for sale. Importantly, passage of Alaska H.B. 396 will mean that Alaska law will be in substantial uniformity with the corresponding provisions of the laws of the other forty-nine states of the United States.

April 11, 1975

HB

397

HB 397

Tape #	Date
33	4/23
34	4/23

399 404 434 440 468

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
315 FIFTH STREET, SUITE 8
JUNEAU, ALASKA 99801
TELEPHONE 586-[redacted]xxxx6425

April 24, 1975

Fill

National Consumer Law Center
One Court Street
Boston, Massachusetts 02108

Subject: Retail installment sales interest rates

H.B. 397

Gentle-wo-men:

I am the lobbyist for Alaska Legal Services in our state legislature. A bill has been filed here to reduce the maximum interest rate on retail charge agreements to one per cent per month from one and one-half per cent. A copy is enclosed, along with a copy of the current law.

I'd like to get your opinion of the effect of this legislation on our clients, including your responses to the following points made against such a reduction.

1. It would reduce the availability of credit to low-income consumers, since higher credit risks would be denied credit.

2. It would increase prices for everyone.

3. It would force low-income consumers to borrow from finance companies and pawn brokers which have higher rates and less reputable business practices.

Since this legislature may act soon on the bill, I would appreciate a response from you as soon as possible.

Thank you.

Sincerely,

/s/

Donald E. Clocksin
Deputy Director

DEC:btg
Enclosure
cc: ✓Rep. Bob Bradley

In the absence of this written objection, the secured party may retain the collateral in satisfaction of the debtor's obligation. (§ 9.505 ch 114 SLA 1962)

Editor's note.—This section is set out above to supply an omission in the original.

Requiring notice of retention is for benefit of debtor. — The requirement of notice to the debtor by a secured party proposing to retain the chattel in satisfaction of the obligation is obviously for the benefit of the debtor. Moran v. Holman, Sup. Ct. Op. No. 945 (File No. 1650), 514 P.2d 817 (1973).

Failure to give notice does not prevent showing that collateral retained. —The creditor's failure to give notice of intention to retain the collateral in discharge of the debt does not prevent the debtor from showing that the collateral was in fact retained by the creditor and on the basis of such fact he may claim that he is discharged from further liability. Moran v. Holman, Sup. Ct. Op. No. 945 (File No. 1650), 514 P.2d 817 (1973).

The giving of notice protects the creditor from a subsequent claim that he should have sold the collateral. Moran v. Holman, Sup. Ct. Op. No. 945 (File No. 1650), 514 P.2d 817 (1973).

Where depreciating collateral held unduly long period of time. — When a secured party retains collateral which depreciates in value, such as a motor vehicle, for an unduly long period of time and uses the vehicle as his own, the debtor may validly claim that his obligation has been satisfied. To rule otherwise would permit overreaching and inequitable abuses by some secured parties. Moran v. Holman, Sup. Ct. Op. No. 945 (File No. 1650), 514 P.2d 817 (1973).

Since a motor vehicle such as a truck is a depreciating asset, where the parties are unsophisticated with reference to the myriad and involved provisions of the Uniform Commercial Code, the secured party who has retaken possession of the collateral, i.e., the motor vehicle, should not be permitted to wait an inordinate period, utilizing the vehicle in the meantime, and then elect to sue for the full amount of the debt. Moran v. Holman, Sup. Ct. Op. No. 945 (File No. 1650), 514 P.2d 817 (1973).

Sec. 45.05.794. Secured party's liability for failure to comply.

Noncompliance with AS 45.05.788(c).—Where noncompliance with the notice of sale provision of AS 45.05.788(c) has been shown, the burden of proving that the market value of the collateral was received at the sale is upon the secured party. Weaver v. O'Meara Motor Co., Sup. Ct. Op. No. 535 (File No. 961), 452 P.2d 87 (1969).

Cited in Stanley v. Foodcrafters, Inc., 7 Alas. L.J. No. 3, p. 435 (Sept. 23, 1968); Blumenstein v. Phillips Ins. Center, Inc., Sup. Ct. Op. No. 748 (File No. 1253), 490 P.2d 1213 (1971).

Chapter 10. Alaska Retail Installment Sales Act.

Section
120. Extent of service charge

Sec. 45.10.120. Extent of service charge. (a) The service charge shall include all charges incident to investigating and making the retail installment contract or charge agreement and for the privilege of making the installment payments under the contract or agreement. No other fee, expense, or charge may be taken, received, reserved, or contracted for investigating and making the contract or agreement, or for the privilege of making the payments.

(b) A seller or holder of a retail installment contract may charge, receive and collect a service charge which shall not exceed the following rates multiplied by the number of months, including a fraction of a month in excess of 15 days as one month, elapsing between the date of the contract and the due date of the last installment,

(1) on so much of the unpaid balance as does not exceed $1,000, five-sixths of one per cent;

(2) if the unpaid balance exceeds $1,000, on so much of the unpaid balance as exceeds $1,000, two-thirds of one per cent;

(3) if the total service charge so computed is less than $12, $12, but if the due date of the last installment of the contract is eight months or less after its effective date, $10.

(c) A seller or holder of a retail charge agreement, revolving charge agreement or other retail charge agreement may charge, receive and collect a service charge not to exceed the following rates computed on the outstanding balances from month to month,

(1) on so much of the outstanding balance as does not exceed $1,000, one and one-half per cent per month;

(2) if the outstanding balance is more than $1,000, one per cent per month on the excess over $1,000 of the outstanding balance;

(3) if the service charge so computed is less than $1 for any month, $1;

(4) the service charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amount minus a differential of not more than $5 provided that it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential. (§ 13 ch 141 SLA 1962; am § 1 ch 154 SLA 1966)

Cross reference.—As to revolving credit plans, see AS 06.05.208.

Effect of amendment.—The 1966 amendment designated the former provisions of this section as subsection (a) and added subsections (b) and (c).

Sec. 45.10.220. Definitions.

Paragraph (12) contemplates that an additional charge may be made when goods are sold on a time payment basis. Metcalf v. Bartrand, 8 Alas. L.J. No. 12, p. 838 (Nov., 1970).

Chapter 30. Standard for Mobile Homes.

Section
10. Mobile home standards
20. [Repealed]
30. Administration
40. Enforcement of compliance
50. Penalty
60. [Repealed]

HB

398

HB 398

Meeting 2-19-76

Testified:

1. Miles Schlosberg
   Director of Banking
   Dept. Commerce

2. Rep. Ted Smith

3. Mr. Brock, Pres.
   Behrends Bank.
   Ak Bankers Association

PEOPLES BANK & TRUST

POUCH 7007 • 8TH AVENUE AND G STREET • ANCHORAGE, ALASKA 99510
TELEPHONE (907) 279-7511

JOHN F. KAMPER
ASSISTANT VICE PRESIDENT

May 21, 1975

Filo

The Honorable Bob Bradley
Alaska State House of Representatives
Pouch V
State Capitol Building
Juneau, Alaska 99881

RE: House Bill #398
Section 34.15.370 Disclosure of closing costs

Dear Mr. Bradley:

In light of 12USC2601, commonly referred to as the Real Estate Settlement Procedures Act of 1974, becoming effective on June 20th of this year, it appears that the above referenced House bill is a case of over protection and over legislation.

I refer in particular to Section 6 of 12USC2605 of RESPA which reads:

"Any lender ... shall provide ... an itemized disclosure in writing of each charge arising in connection with such settlement."

12USC2601 places this and many other responsibilities on lenders and I urge you to read that law. House Bill #398 is accordingly not necessary, and it in effect closes the barn door after the horse is gone. It places a needless responsibility on lenders that are already overburdened in their responsibilities in regard to real estate closings.

I urge you not only to vote "nay" on this bill, but to urge your fellow representatives to realize the uselessness of such over-kill legislation.

Very truly yours,

John F. Kamper
Assistant Vice President

JFK/pm

MEMBER FEDERAL DEPOSIT INSURANCE CORPORATION

A FULL SERVICE BANK

Form Approved
OMB No. 63-R1501

A. U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT

DISCLOSURE/SETTLEMENT STATEMENT

B. TYPE OF LOAN:

1. ☐ FHA 2. ☐ FMHA 3. ☐ CONV. UNINS.
4. ☐ VA 5. ☐ CONV. INS.

6. FILE NUMBER

7. LOAN NUMBER

8. MORTG. INS. CASE NO.

If the Truth-in-Lending Act applies to this transaction, a Truth-in-Lending statement is attached as page 3 of this form.

C. **NOTE:** This form is furnished to you prior to settlement to give you information about your settlement costs, and again after settlement to show the actual costs you have paid. The present copy of the form is:

☐ ADVANCE DISCLOSURE OF COSTS. Some items are estimated, and are marked "(e)". Some amounts may change if the settlement is held on a date other than the date estimated below. The preparer of this form is not responsible for errors or changes in amounts furnished by others.

☐ STATEMENT OF ACTUAL COSTS. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for informational purposes and are not included in totals.

D. NAME OF BORROWER	E. SELLER	F. LENDER

G. PROPERTY LOCATION	H. SETTLEMENT AGENT	I. DATES	
		LOAN COMMITMENT	ADVANCE DISCLOSURE
	PLACE OF SETTLEMENT	SETTLEMENT	DATE OF PRORATIONS IF DIFFERENT FROM SETTLEMENT

J. SUMMARY OF BORROWER'S TRANSACTION

100. GROSS AMOUNT DUE FROM BORROWER:		
101. Contract sales price		
102. Personal property		
103. Settlement charges to borrower *(from line 1400, Section L)*		
104.		
105.		
Adjustments for items paid by seller in advance:		
106. City/town taxes	to	
107. County taxes	to	
108. Assessments	to	
109.	to	
110.	to	
111.	to	
112.	to	
120. GROSS AMOUNT DUE FROM BORROWER:		
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:		
201. Deposit or earnest money		
202. Principal amount of new loan(s)		
203. Existing loan(s) taken subject to		
204.		
205.		
Credits to borrower for items unpaid by seller:		
206. City/town taxes	to	
207. County taxes	to	
208. Assessments	to	
209.	to	
210.	to	
211.	to	
212.	to	
220. TOTAL AMOUNTS PAID BY OR IN BEHALF OF BORROWER		
300. CASH AT SETTLEMENT REQUIRED FROM OR PAYABLE TO BORROWER:		
301. Gross amount due from borrower *(from line 120)*		
302. Less amounts paid by or in behalf of borrower		

K. SUMMARY OF SELLER'S TRANSACTION

400. GROSS AMOUNT DUE TO SELLER:		
401. Contract sales price		
402. Personal property		
403.		
404.		
Adjustments for items paid by seller in advance:		
405. City/town taxes	to	
406. County taxes	to	
407. Assessments	to	
408.	to	
409.	to	
410.	to	
411.	to	
420. GROSS AMOUNT DUE TO SELLER		
NOTE: The following 500 and 600 series sections are not required to be completed when this form is used for advance disclosure of settlement costs prior to settlement.		
500. REDUCTIONS IN AMOUNT DUE TO SELLER:		
501. Payoff of first mortgage loan		
502. Payoff of second mortgage loan		
503. Settlement charges to seller *(from line 1400, Section L)*		
504. Existing loan(s) taken subject to		
505.		
506.		
507.		
508.		
509.		
Credits to borrower for items unpaid by seller:		
510. City/town taxes	to	
511. County taxes	to	
512. Assessments	to	
513.	to	
514.	to	
515.	to	
520. TOTAL REDUCTIONS IN AMOUNT DUE TO SELLER:		
600. CASH TO SELLER FROM SETTLEMENT:		
601. Gross amount due to seller		

DISCLOSURE/SETTLEMENT STATEMENT

L. SETTLEMENT CHARGES	PAID FROM BORROWER'S FUNDS	PAID FROM SELLER'S FUNDS
700. SALES BROKER'S COMMISSION based on price $ @ %		
701. Total commission paid by seller Division of commission as follows:		
702. $ to		
703. $ to		
704.		
800. ITEMS PAYABLE IN CONNECTION WITH LOAN.		
801. Loan Origination fee %		
802. Loan Discount %		
803. Appraisal Fee to		
804. Credit Report to		
805. Lender's inspection fee		
806. Mortgage Insurance application fee to		
807. Assumption/refinancing fee		
808.		
809.		
810.		
811.		
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE.		
901. Interest from to @ $ /day		
902. Mortgage insurance premium for mo. to		
903. Hazard insurance premium for yrs. to		
904. yrs. to		
905.		
1000. RESERVES DEPOSITED WITH LENDER FOR:		
1001. Hazard insurance mo. @ $ / mo.		
1002. Mortgage insurance mo. @ $ / mo.		
1003. City property taxes mo. @ $ / mo.		
1004. County property taxes mo. @ $ / mo.		
1005. Annual assessments mo. @ $ / mo.		
1006. mo. @ $ / mo.		
1007. mo. @ $ / mo.		
1008. mo. @ $ / mo.		
1100. TITLE CHARGES.		
1101. Settlement or closing fee to		
1102. Abstract or title search to		
1103. Title examination to		
1104. Title insurance binder to		
1105. Document preparation to		
1106. Notary fees to		
1107. Attorney's Fees to		
(includes above items No.:)		
1108. Title insurance to		
(includes above items No.:)		
1109. Lender's coverage $		
1110. Owner's coverage $		
1111.		
1112.		
1113.		
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES		
1201. Recording fees: Deed $; Mortgage $ Releases $		
1202. City/county tax/stamps: Deed $; Mortgage $		
1203. State tax/stamps: Deed $; Mortgage $		
1204.		
1300. ADDITIONAL SETTLEMENT CHARGES		
1301. Survey to		
1302. Pest inspection to		
1303.		
1304.		
1305.		
1400. TOTAL SETTLEMENT CHARGES *(entered on lines 103 and 503, Sections J and K)*		

NOTE: Under certain circumstances the borrower and seller may be permitted to waive the 12-day period which must normally occur between advance disclosure and settlement. In the event such a waiver is made, copies of the statements of waiver, executed as provided in the regulations of the Department of Housing and Urban Development, shall be attached to and made a part of this form when the form is used as a settlement statement.

HB
403

HB 403

Tape #

34

Date

4/24

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF COMMERCE

DIVISION OF BANKING, SECURITIES, SMALL LOANS & CORPORATIONS / *POUCH D— JUNEAU 99801*

May 27, 1975

Honorable Senator Jalmar M. Kerttula
Chairman Senate Commerce Committee
and
Honorable Represenative Robert Bradley
Chairman House Commerce Committee
Pouch V
State Capitol
Juneau, Alaska 99811

Should have joint meeting on this NEXT YEAR

Dear Senator Kerttula and Representive Bradley:

Re: Limited Liability Companies Senate Bill 354 and House Bill 403

If you are still considering the above bills you might want to add the enclosed letter to your files. It does not change the views I expressed in my earlier letter to you but simply adds to the explanation of the disuse of similar type associations in the State of Michigan.

Sincerely,

Miles S. Schlosberg

Miles S. Schlosberg
Director

MSS/ws

Enclosure

cc/ Robert Hartig Esq.
Senator Mike Colletta

Miles

LAURENT K. VARNUM
CARL J. RIDDERING
OF COUNSEL

LAW OFFICES OF
VARNUM, RIDDERING, WIERENGO & CHRISTENSON
666 OLD KENT BUILDING
GRAND RAPIDS, MICHIGAN 49502

TELEPHONE 616 • 459-4186

JOHN L. WIERENGO, JR.
CLIFFORD C. CHRISTENSON
F. WILLIAM HUTCHINSON
JAMES N. DEBOER, JR.
GORDON B. BOOZER
EUGENE ALREMA
PETER ARMSTRONG
ROBERT J. ELEVELD
CARL E. VER BEEK
JON F. DEWITT
DONALD L. JOHNSON
DANIEL C. MOLHOEK
GARY P. SKINNER
CARL R. FLEETWOOD

DIRK HOFFIUS
J. TERRY MORAN
THOMAS J. HEIDEN
THOMAS J. MULDER
THOMAS J. BARNES
JEFFREY L. SCHAD
STEPHEN R. SAWYER

RECEIVED
MAY 23 1975
DEPARTMENT OF COMMERCE
DIVISION OF BANKING
SECURITIES AND LOANS

May 19, 1975

Mr. Miles S. Schlosberg
Director of Division of Banking
Department of Commerce
State Office Building
Pouch D
Juneau, Alaska 99801

Dear Mr. Schlosberg:

It has come to our attention that you have contacted various Michigan law firms regarding the use of Michigan partnership associations. As we understand your inquiry, you generally desire information as to why there has been a lack of use of this type of entity. In this connection, we would like to offer our views on the subject.

As near as we can determine, the Michigan partnership association entity was utilized to some considerable extent prior to the 1930's. In 1931, Michigan adopted a general corporation act which was reasonably broad for its time and resolved many of the complexities of the prior law. Prior to 1931, Michigan had many different corporate acts for different business activities which were rather complex and restrictive. The partnership association was less involved and less complex. We believe that the phasing out of the use of the partnership association in the 1930's may have been attributable in part to the simplification of the State's corporate laws in 1931.

In addition, it appears from the holdings of various tax cases and from the 1939 Internal Revenue Code and regulations promulgated pursuant thereto that a partnership association was taxed as a corporation prior to the 1954 Code. The regulations under the 1954 Internal Revenue Code were substantially changed; and therefore, it is possible that such an entity could qualify, if properly structured, as a partnership for federal income tax purposes. The Internal Revenue Service has ruled that a limited partnership association formed under Ohio law, as structured, possessed more corporate than non-corporate attributes; and thus, was an association taxable

as a corporation for federal income tax purposes. However, there have been no published rulings to our knowledge by the Internal Revenue Service relating to a partnership association that was taxable as a partnership for federal income tax purposes. Hence, the somewhat undefined status of partnership associations for federal tax purposes may have contributed to limited use of the partnership association entity.

Finally, we think it is worthy to note that the limited partnership has in the past two decades or so become perhaps the most viable entity for use by persons desiring to limit their personal liability and yet receive the benefits of the pass through of tax losses. Moreover, limited partnerships were frequently structured with a shell corporation serving as the sole general partner in an effort to achieve total limited liability for partnership debts. This latter technique has been under recent attack by the Internal Revenue Service. In 1972, the Service issued notice that it would no longer rule on the validity of the limited partnership with a corporation as a sole general partner unless the corporation had a certain specified net worth. In 1974, the Service further declared that general partners had to have at least a 1% interest in all items of partnership income and expense. As a result of the Internal Revenue Service's position, limited partnerships have become somewhat less attractive to some practitioners and investors, because it is difficult to structure a limited partnership which will achieve full limited liability and at the same time assure treatment as a partnership for federal income tax purposes.

In summary, it is our view that the changes in the Michigan corporate laws in the early 1930's, the uncertainty of the tax treatment accorded a Michigan partnership association and the attractiveness of a limited partnership may well be some of the principal reasons that partnership associations have not been utilized to any great extent in recent years.

If you should desire further information concerning our views on this matter, please do not hesitate to contact the undersigned at any time.

Very truly yours,

VARNUM, RIDDERING, WIERENGO & CHRISTENSON

Donald K. Johnson

DLJ:ps

Department of the Treasury

135-7

Phone Contact: Philip M. Corn
Phone Number: 202-964-3553

Internal Revenue Service
Washington, DC 20224

Date: MAY 12 1975 | In reply refer to: T:I:I:2:2

Where the request from my letter

Mr. Frank M. Burke, Jr.
Peat,Marwick, Mitchell & Co.
Suite 1500
2001 Bryan Tower
Dallas, Texas 75201

Dear Mr. Burke:

This is in response to your letter of May 1, 1975, as amended by your letter of May 2, 1975, written on behalf of the Legislature of the State of Alaska. Your inquiry concerns the manner in which the Internal Revenue Service will classify entities formed pursuant to the Alaska Limited Liability Company Act ("Act") for Federal income tax purposes if the Act is enacted into law. The Act is now pending in the Alaska Legislature as Senate Bill 354 and House Bill 403.

In the event the Act is enacted into law, the Service will consider a request for a ruling, submitted in accordance with applicable procedures, as to the classification of an entity formed pursuant to the Act. In considering any such ruling request, the Service will apply section 7701 of the Internal Revenue Code of 1954, the regulations thereunder, and any other pertinent provisions of the Code and regulations.

Sincerely yours,

Billy M. Hargett

Chief, Individual Income Tax Branch

Who did I send letter to? Where is a copy of it?

Kim

COLE, HARTIG, RHODES, NORMAN, MAHONEY, & GOLTZ
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
SUITE 201
717 K STREET
ANCHORAGE, ALASKA 99501
(907) 274-3576

HOYT M. COLE
ROBERT L. HARTIG
JAMES O. RHODES
JOHN K. NORMAN
ROBERT J. MAHONEY
KEITH A. GOLTZ
—
BERNARD J. DOUGHERTY

Fill

May 16, 1975

Honorable Bob Bradley, Chairman
House Commerce Committee
Alaska State House of Representatives
Pouch V
State Capital Building
Juneau, AK 99811

Re: Limited Liability Company Act
House Bill 403

Dear Representative Bradley:

Enclosed is a response from the Internal Revenue Service regarding House Bill 403.

As stated in the IRS letter, they will consider a ruling to classify an entity formed under the proposed Limited Liability Company Act under the provisions of Internal Revenue Code Sec. 7701 and the regulations under that section.

The regulations under Sec. 7701 present the four characteristics used to classify an entity as a corporation or a partnership for tax purposes. They are:

1. Limited Liability.
2. Centralization of Management.
3. Continuity of Life.
4. Free Transferability of Interests.

As explained in my testimony before the House Commerce Committee on April 24, 1975, the Limited Liability Company Act as drafted, would insure the lack of corporate characteristics three and four, and if the members choose to retain management in themselves, the Limited Liability Company would also lack the

corporate characteristic of Centralization of Management. Thus, under the provisions of Treasury Regulations Sec. 301.7701, the Limited Liability Company should be classified as a partnership for Federal tax purposes.

Thank you for your attention to this matter and if I can be of any further help please contact me.

Kindest regards.

Very truly yours,

COLE, HARTIG, RHODES, NORMAN, MAHONEY & GOLTZ

By Bernard J. Dougherty
Bernard J. Dougherty

BJD:mg
Enclosure

PEAT, MARWICK, MITCHELL & CO.
CERTIFIED PUBLIC ACCOUNTANTS
SUITE 1500, 2001 BRYAN TOWER
DALLAS, TEXAS 75201

File with HB 403

May 14, 1975

PRIVATE

The Honorable Bob Bradley
Chairman, Commerce Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Bradley:

Enclosed is the original of an information letter from the National Office of the Internal Revenue Service setting forth the procedure which would be followed by the Internal Revenue Service in considering the issuance of rulings with respect to the proposed Limited Liability Company Act (House Bill 403 and Senate Bill 354) presently pending before the Alaska Legislature.

This letter from the Internal Revenue Service is in response to your letter dated April 30, 1975, and your telegram dated May 6, 1975, together with the letter of Senator Jalmar Kerttula dated April 30, 1975, requesting such letter. The undersigned and Mr. Bernard Dougherty met with Mr. Phil Corn of the Internal Revenue Service in Washington, D.C. on May 2, 1975, to formally present the request of the Alaska Legislature for this letter.

I trust the enclosed letter is satisfactory for your purposes. If you have any questions, please call the undersigned or Mr. Dougherty.

Yours very truly,

PEAT, MARWICK, MITCHELL & CO.

Frank M. Burke, Jr., Partner

FMB:jc
Encl.
cc: The Honorable Richard K. Urion
Mr. Miles S. Schlosberg
Mr. Bob Hartig

Department of the Treasury

Phone Contact: Philip M. Corn
Phone Number: 202-964-3553

Internal Revenue Service
Washington, DC 20224

Date: MAY 12 1975

In reply refer to: T:I:I:2:2

Mr. Frank M. Burke, Jr.
Peat,Marwick, Mitchell & Co.
Suite 1500
2001 Bryan Tower
Dallas, Texas 75201

Dear Mr. Burke:

This is in response to your letter of May 1, 1975, as amended by your letter of May 2, 1975, written on behalf of the Legislature of the State of Alaska. Your inquiry concerns the manner in which the Internal Revenue Service will classify entities formed pursuant to the Alaska Limited Liability Company Act ("Act") for Federal income tax purposes if the Act is enacted into law. The Act is now pending in the Alaska Legislature as Senate Bill 354 and House Bill 403.

In the event the Act is enacted into law, the Service will consider a request for a ruling, submitted in accordance with applicable procedures, as to the classification of an entity formed pursuant to the Act. In considering any such ruling request, the Service will apply section 7701 of the Internal Revenue Code of 1954, the regulations thereunder, and any other pertinent provisions of the Code and regulations.

Sincerely yours,

Billy M. Hargett

Chief, Individual Income Tax Branch

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF COMMERCE

DIVISION OF BANKING, SECURITIES, SMALL LOANS & CORPORATIONS / POUCH D — JUNEAU 99801

May 5, 1975

The Honorable Robert Bradley
Chairman of the House Commerce Committee
Pouch V
State Capitol
Juneau, Alaska 99801

Dear Representative Bradley:

Re: House Bill No. 403

During my testimony on April 24, on House Bill No. 403 concerning limited liability companies I stated that it was the position of the Department of Commerce that the bill did not appear bad but that several issues should be considered before the bill was passed:

1. Why had the State of Pennsylvania repealed similar legislation and why were statutes provding for similar organizations largely unused in the three states in which they currently existed, Ohio, Michigan and New Jersey?

2. How would the Internal Revenue Service tax limited liability companies created under the bill.

I have spoken to tax lawyers in Ohio and Pennsylvania concerning Question 1. The reason that their laws are in disuse or repealed is because organizations set up thereunder have been treated as corporations and denied partnership tax treatment by the Internal Revenue Service. The legislation in Michigan and New Jersey is very similar in its salient tax respects and I have no reason to doubt that organizations set up under the Michigan or New Jersey law will be treated similarly. However, House Bill No. 403 differs from the laws of the four latter states in that the other states require centralized management, i.e. the election of Boards of Directors and a General Manager, whereas HB 403 does not require centralized management. Centralized management is one of the four factors the Internal Revenue Service considers in determining whether or not an organization should be taxed as a corporation or partnership. It is likely that organizations set up under HB 403, lacking central management, would not be taxed as corporations.

The answer to question number 2 will hopefully be obtained by you from the Internal Revenue Service. The lawyers I spoke to were not

inclined to speculate as to tax treatment under HB 403 except to agree that the absence of centralized management distinguished HB 403 and made it more likely that the IRS would accord HB 403 type organizations partnership tax status.

If HB 403 is passed and limited liability companies are accorded partnership tax status by the IRS then Alaska would have pioneered a new and very useful business organization. I submitted the intradepartmental comment sheet because we found numerous minor and technical difficulties. The bill's proparents, Messrs. Hartig and Dougherty have met with Mr. Ladwig of this division in an attempt to resolve these problems. We will appreciate your giving us the opportunity to comment upon any revised bill that results . Based on the foregoing we respectfully change our position from "not in favor" to "in favor".

Yours truly,

Miles S. Schlosberg
Director

MSS:kb

cc Langhorne A. Motley
Commissioner of Commerce
Robert Hartig
Bernard Dougherty

ADDITIONAL COMMENTS ON HB 403

(Supplement to Ladwig's
comments of April 17, 1975.)

Why did Pennsylvania repeal in 1966 and why has New Jersey let it become dormant.

Will it really be taxed as a partnership. Wouldn't it be more efficient to have an IRS opinion first if it is at all possible. However this is a legislator's concern for efficiency, not mine. Has the IRS route been explored?

It would be wasteful to gear up our Division to handle this new creation unless the IRS detaches it as a partnership.

TO: Banking DATE: April 17, 1975

(SENATE - HOUSE) BILL 403

RE: An Act relating to limited liability companies.

Check One:

1. TOP PRIORITY - in favor of. ____
2. FAVOR - in favor of, but not top priority. ____
3. OK - no definite stand. ____
4. NOT IN FAVOR - X
5. TOP PRIORITY - "Strongly Opposed" ____
6. BILL DOES NOT PERTAIN TO DIVISION ____

COMMENTS: (Justification must be stated for the above line checked - continue on another page if needed.)

This writer is not in favor of the proposed bill as written for the following reasons:

1. Assuming the responsibility for administration is delegated to the Division of Banking, Securities, Small Loans & Corporations, it will have a fiscal impact upon this Division. Fiscal note attached.

2. Page 2, lines 10 and 11. To operate in jurisdictions other than Alaska may require registration in those jurisdictions similar to that required by this State of foreign corporations. Proof of existence may be required. This bill does not provide for a fee for providing certified copies of documents; or the documents themselves.

3. Page 3, line 27. The term person is defined in this bill; however no provision is made that individuals wishing to form such a company must be at least of "legal age".

(continued)

Writer's Signature:
Writer's Title:
(DEADLINE 24 hours)

13. Page 11, line 9. Proof should be required that the company has completed its affairs before a certificate of dissolution is issued, i.e. articles of dissolution.

14. Page 11, line 13. The accounts and affairs should be settled before dissolution and be a condition precedent to issuing any certificate of dissolution other than a certificate issued by reason of involuntary dissolution.

15. Provisions should be made for an annual report to accompany the tax to allow the Commissioner to determine

    (a) that no capital contributions have been made other than those by filed amendment and the tax thereon has been paid.
    (b) that the company has continued to maintain the same registered agent as that of record.

16. Provisions should be made for a registered agent to resign and a new one appointed and/or changing the registered office.

17. Consideration should be given to providing limited liability companies of other jurisdictions the means to do business in Alaska.

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

FY 76

100 - 2 positions @ 340 + 18% benefits

300 - rental expense, postage, printing, xerox, etc.

400 - stationery & office supplies

500 - desks, chairs, typewriters, file cabinets

FY 77-80

Assumed 5% inflation

IV. ATTACHMENTS

V. DATE: 4/18/75 PREPARED BY: William W. Ladwig

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

HB 403

BERNARD J. DOUGHERTY
ATTORNEY AT LAW

COLE, HARTIG, RHODES, NORMAN,
MAHONEY & GOLTZ
A PROFESSIONAL CORPORATION

717 K STREET, SUITE 201
ANCHORAGE, ALASKA 99501

TELEPHONE
(907) 274-3576

MEMORANDUM

LIMITED LIABILITY COMPANY

The limited liability company has predecessors in New Jersey, Pennsylvania, Michigan and Ohio. In New Jersey and Ohio it was known as a "limited partnership association" and in Pennsylvania and Michigan as a "partnership association".

The business entity which we will now call the limited liability company had its origins in the third quarter of the 19th century. It was adopted in Pennsylvania in 1874, in Michigan in 1877, in New Jersey in 1880, and in Ohio in 1881. No other states have used this form of business entity.

The reason for its creation seems to be the particularly restrictive corporation statutes common in the late part of the 19th century. At that time in the development of the corporate entity, the restrictions in some states included the limitation of business to one state, the limitation of the corporation's business to a sole purpose stated in the Articles of Incorporation and various similar confining requirements. In the early days of the development of the corporation, the case law also was extremely restrictive on what a corporation could do and how it could do it, because of the roots in the English system that a corporation, being chartered by the Crown, was authorized to do only what the Crown specifically authorized it to do.

In the early 20th century, these restrictions on corporate activity were greatly reduced and have continued to be reduced through the introduction of the Delaware corporate statute and the Model Business Corporation Act, upon which many states have based their corporation statutes. These statutes gave much greater freedom to the shareholders and the board of directors to structure the activities of the corporation to meet their particular needs. This has especially been true in the close or closely held corporation which most often is a family corporation. Indeed, some states have adopted statutes which govern the activity of such close corporations and give them wide latitude in arranging their affairs. As these new corporate statutes were adopted by the various states and the case law governing the activities of corporations began to be less restrictive, the vehicle of the limited partnership association or partnership association fell in to disuse.

In introducing the Limited Liability Company Act in the State of Alaska, it is our desire to provide to investors, and particularly real estate investors, the opportunity to utilize this new form of business entity to conduct their business affairs with less expense and fewer restrictions.

The Ohio statute proves to be not usable for these objectives because of its preclusion of dealing in real estate

from the uses of the Ohio Limited Partnership Association, (Ohio Rev. Stats. §1783.01).

Also, the statutes in the other states are substantially more restrictive than the Alaska legislation being introduced and thus provide a less useful vehicle for conduct of a business. For example, the New Jersey statute (NJ Stats. Ann. §42.3-1) requires that the principal place of business of a New Jersey limited partnership association must be established and maintained within the State of New Jersey. The Ohio and Michigan statutes, though a little less restrictive, still require that that organization shall have its principal office or principal place of business within the state. The Pennsylvania statute was repealed in 1966, except as to professions which are not permitted to incorporate in the state.

The Alaska proposed legislation does away with this requirement as to the principal office or principal place of business. The reason for this is the desire to draw to the state investors interested in organizing under the Alaska Limited Liability Company Act for business or investment in other states as well as the State of Alaska. The legislation requires a registered agent in the state which would always insure a resident on whom process can be served in suit against the limited liability company.

The legislation proposed would provide a good amount of revenue each year to the state as there are provisions in the proposed legislation for the following fees:

1. A filing fee upon formation of the Limited Liability Company, which is based on capital invested upon a sliding scale to a maximum of $1,000;
2. An annual fee of $100;
3. A filing fee for amendment to the Certificate of Organization of $25.00; and
4. A filing fee of $25.00 upon dissolution.

It is suggested that this form of business entity will draw a substantial number of investors from other states who, up to this time, have used the limited partnership, corporation or joint venture vehicle for their investments.

In the first ten months of 1974, approximately 1,300 limited partnerships were filed in the State of Texas, which requires a filing of the limited partnership within the state. In Texas this is used as a revenue measure and there is a requirement of a filing fee which rapidly reaches the maximum fee of $2,500 at capital contributed of $500,000. This figure would not at all be uncommon in the real estate market of today.

It is estimated that in excess of half of these limited partnerships would be drawn to use the Limited Liability Company authorized by the proposed legislation in the

State of Alaska to conduct their business or to direct their investments, thus providing this increased revenue for the State. This figure is only for the State of Texas and it is suggested that this legislation would be attractive to investors of all states and may substantially contributed to the revenue of our state.

In addition, it is hoped that in drawing investors to the state for the purpose of utilizing our Limited Liability Company Act as a vehicle for investment in other states, such investors will also use the device as an investment entity in our state, thus providing increased work for real estate personnel, title companies, and all those persons who assist in transactions concerning real estate. In addition, it will be necessary for each limited liability company to establish and maintain a registered agent in the state and it will be necessary for the state to employ a number of additional persons to file and administer the limited liability companies.

The provisions of the act enable the persons forming a limited liability company to provide for management of the limited liability company either by the members or by a manager or managers elected by the members of the limited liability company. The voting power of the members is to be in proportion to their investment in the capital of the company. As with a corporation, the liability of the limited liability

company is to be limited to assets of the company. A member would have a liability not to exceed his contribution to the company or any amount which he is committed to contribute but has not as yet contributed. Why would this vehicle be used rather than a limited partnership? Because it combines the attractive characteristics of a corporation with the attractive characteristics of a partnership.

It is hoped that in submitting a request for a private ruling from the Internal Revenue Service of the United States Treasury Department, a limited liability company could obtain partnership classification for tax purposes.

There are four characteristics in distinguishing between partnership classification and classification and taxation as an association or corporation for purposes of the Internal Revenue Code. These are: (1) centralization of management; (2) continuity of life; (3) free transferability of interests; and (4) limited liability.

In order to be taxed as an association, an entity must have more corporate characteristics than partnership characteristics. A similar problem with regard to taxation is faced by the limited partnership vehicle which would often request advanced revenue rulings to make the limited partnership attractive to an investor.

As drafted, the limited liability company obviously would always have limited liability.

It is expected that the Internal Revenue Service would rule favorably on the continuity of life characteristic because of provision 10.50.060 which states that a limited liability company shall be dissolved upon the death, retirement, resignation, expulsion, bankruptcy, dissolution of a member or occurrence of any other event which terminates the continued membership of a member in the limited liability company, unless the business of the limited liability company is continued by the consent of all the remaining members thereof. Thus, without consent of all the remaining members, the limited liability company would be dissolved upon one of the stated events.

Free transferability of interests is treated in Section 10.50.057. This section provides that a member may always transfer his interest in the limited liability company, but unless unanimous approval is obtained from the other members, the member transferring an interest, can transfer merely the profit and loss interest and not a right to share in the management of the limited liability company.

As to the characteristic of centralization of management, the provisions of the proposed legislation enable the members of the limited liability company to choose whether the limited liability company will be governed by themselves as members or by a manager or management elected by them. If the

members choose to retain management, the limited liability company would also lack the corporate characteristic of centralization of management.

Thus, it can be seen that at least two and possibly three of the corporate characteristics may be lacking in the classification of the limited liability company as a partnership or as an association for the purposes of the Internal Revenue Code.

In conclusion, a limited liability company offers the investor a business entity which combines the attractive elements of both a partnership and a corporation. It combines the limited liability offered to shareholders of a corporation with the tax treatment of a partnership.

The possibilities of increased revenue to the state have been set forth and it appears that increased revenues in excess of one million dollars may be obtained with very little increased expense incurred.

Robert L. Hartig

March 14, 1975

CORPORATION V. PARTNERSHIP V. LIMITED LIABILITY COMPANY

A. NON-TAX CONSIDERATIONS

	CORPORATION	PARTNERSHIP	LIMITED LIABILITY COMPANY
LIFE	Perpetual in most cases.	Agreed term, or life of any partner.	Agreed. Not to exceed 30 years.
ENTITY	Separate legal person.	Not a separate entity from individual partner.	Separate legal entity.
LIABILITY	No individual liability.	General partner individually liable for all obligations. Limited partner usually liable to the amount of capital contributed.	No individual liability.
TRANSFER OF INTEREST	In absence of restrictions interest may be sold to strangers.	New partnership agreement usually required.	May be transferred; however, if all other members do not approve of the proposed transfer by unanimous written consent, the transferee has no right to participate in the management and affairs of the company or to become a member, but is entitled only to receive his share of the profit or return of contributions.
CAPITAL	Capital may be enlisted by sale of stock.	New capital secured only by loans, increase in membership or new contributions by existing partners.	Capital is contributed in money or property at inception or during the course of operation as set out in the Certificate of Organization.
BUSINESS ACTION	Action authorized by specified percentage of directors and/or stockholders.	Unanimity of partners usually required.	Action authorized by majority in interest of the members.

	CORPORATION	PARTNERSHIP	LIMITED LIABILITY COMPANY
CREDIT CONSIDERATIONS	The corporation possesses credit ability apart from stock membership. Certificates of stock may be used as collateral.	Credit is coincidental with membership and partners assume joint and several responsibility. Interests in partnerships are not ordinarily accepted as basis for loan or credit.	Credit will be extended to the company on the strength of its contributed or to-be-contributed capital.
MANAGEMENT	Shareholders may invest without participation in management.	All general partners involved in management responsibility	Management of the company is in the members unless management by a manager or managers to be elected by the members is provided in the Certificate of Organization.
FLEXIBILITY	A corporation operates within its corporate franchise granted by the state or states in which it is authorized to do business.	A partnership is a contractural relationship which may be altered by unanimous agreement of the partners.	Flexibility is perhaps the Limited Liability Company's strongest point The Certificate of Organization will contain a minimum of restrictions and the working rules of the corporation may be drafted in the form of an operating agreement.
B. TAX FACTORS			
TAX BURDEN	As a separate legal personality a corporation is subject to taxation, in addition to the taxation of the income received as dividends by its members. Electing "Small Business Corporation". (1) Each shareholder's proportionate share of the corporation's undistributed taxable income is included in the gross income of the shareholder. The corporation pays no tax thereon. This substantially parallels the taxation of a partner's income from the partnership.	Each partner is taxed on his proportionate share of income whether distributed or not.	Private revenue ruling will be requested of the Internal Revenue Service requesting that the company be classified as a partnership for federal tax purposes.As drafted the Limited Liability Company will lack at least two and perhaps three of the characteristics of a corporation; the third centralization of management, will be lacking if management is reserved to the members.

	CORPORATION	PARTNERSHIP	LIMITED LIABILITY COMPANY
TAX CONCERN	In close corporations, gross corporate income is reduced by reasonable salaries paid to officer-stockholders. Accumulation of profits may be made up to at least $100,000 or to such larger extent as not to constitute avoidance of surtax by the stock-holders and an unreasonable accumulation in terms of the requirements of business. Corporation taxes, plus individual taxes on the compensation for services or dividends, represent the tax burden of the corporate investment, as against the individual tax paid by partners. Electing "Small Business Corporation." Undistributed taxable income of an electing corporation is taxable proportionately to each shareholder. Subsequent distributions out of this income to the share-holders are tax free. This substantially parallels the taxation of a partner's income from the partnership.	All earnings and profits are taxable to the indi-vidual partner, unaffected by accumulations of earnings However, once so taxed, there-after any distributions of these earnings are tax exempt to the individual partner.	All earnings and taxes are taxable to the members whether distributed or not. It is contemplated that the distribution rules and basis rules now applic-cable to the partnership interest will also be applicable to a limited liability company.
PENSION TRUST	Corporate contributions to a pension trust, within the amount allowed by law are deductible by the cor-poration. Stockholder-employees may be covered to same extent as other	Members of a partnership are not employees and are not proper beneficiaries under an exempt Pension Trust. However, under the Self-Employed Individuals Tax Retirement Act of 1962,	Unknown but it is suggested that the rules now applicable to a Subchapter S corporation which impose the limits of the Keogh Plan will also be applicable.

	CORPORATION	PARTNERSHIP	LIMITED LIABILITY COMPANY
	employees, so long as there is no discrimination in favor of such stockholders. Electing "Small Business Corporation". An electing corporation's contributions to a pension trust, within the amount allowed by law, are deductible by the corporation from its taxable income.	partners who own more than 10% of the capital or profit interest in the partnership may, beginning in 1968, deduct the full amount of their contribution to a pension plan up to $2500.	
SOCIAL SECURITY TAX	Compensation paid to stockholding officers and employees is subject to Social Security Taxes. Electing "Small Business Corporation". Compensation paid to stockholding Officers and employees is subject to Social Security Taxes.	Partners do not pay Social Security Taxes upon their salaries from the partnership. However, they are required to pay the tax on self-employment income.	Result should be same as partnership with members paying self-employment tax and not subject to Social Security Tax.
ASSIGNABILITY OF INTEREST OR INCOME	An unqualified transfer of stock ordinarily requiring no other person's consent, will entitle transferee to dividends or distributions Electing "Small Business Corporation". Transferee is entitled to dividends and distributions, but the stock must be transferred to an individual or estate and the transferee must consent to the continuation of the "tax option" status.	Any assignment of interest requires consent of the other partners and may create a new partnership.	A member's interest in Limited Liability Company may not be transferred or assigned without unanimous approval of the continuing members. Assignment of a member's interest will result in the tax falling on the transferee.

	CORPORATION	PARTNERSHIP	LIMITED LIABILITY COMPANY
COMMUNITY PROPERTY STATES	Dividends from investments made from community property become community property. Electing "Small Business Corporation". Dividends from investments made from community property become community property.	Whether income is community or separate income depends upon the law of the state of domicile.	Same as partnership, with the results depending on the community property laws in the several states.
DUAL MEMBERSHIPS	Because it would be extending its credit, liability and the powers of the Board of Directors beyond legal scope, a corporation cannot be a direct member of a partnership in some states. Electing "Small Business Corporation". Stock may not be held by either a partnership or another corporation.	A partnership may own some or all of the stock of a corporation and so function in two capacities.	A Limited Liability Company enjoys flexibility in this area and may be owned by other entities or individuals and participate in other entities and business enterprises.

(1) An electing "small business corporation" is a domestic corporation which does not have more than 10 shareholders and which otherwise comes within the requirements of Subchapter "S" of the Internal Revenue Code, and whose shareholders elect to include in their personal income the current taxable income of the corporation.

1. Sec. 10.50.030.(a) The word "Limited" ["limited"] or as abbreviated "Ltd." shall be the last word of the name of every limited liability company formed under the provisions of this chapter and, in addition, the limited liability company name may not

(1) contain a word or phrase which indicates or implies that it is organized for a purpose other than one or more of the purposes contained in its certificate of organization;

(2) be the same as, or deceptively similar to, the name of a limited liability company or corporation existing under the laws of this state or a foreign corporation authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved in the manner provided under the laws of this state.

(b) Omission of the word "Limited" ["limited"] in the use of the name of the limited liability company shall render any person who participates in the omission, or knowingly acquiesces in it, liable for indebtedness, damage or liability occasioned by the omission.

2. Sec 10.50.050. (a)(5) the total amount of cash and a description and agreed value of [or] property other than cash contributed;

3. Sec. 10.50.080. CONTRIBUTIONS TO CAPITAL. The contributions to capital by [of] a member to the limited liability

company may consist of cash or other property, but not services.

4. Sec. 10.50.110. LIMITED LIABILITY COMPANY PROPERTY. Real and personal property owned or purchased by a limited liability company shall be held and owned, and conveyance made, in the limited liability company name, or in the name of any member or manager. Instruments and documents providing for the acquisition, mortgage or disposition of property of the limited liability company shall be valid and binding upon the limited liability company having a manager or managers or one or more members of a limited liability company in which management has been retained by [in] the members.

5. Sec. 10.50.140. DIVISION OF PROFITS: IMPAIRMENT OF CAPITAL. The limited liability company may, from time to time, divide the profits of its business and distribute the same to the members of the limited liability company upon the basis stipulated in the operating agreement; provided however[,] that, after distribution is made, the assets of the limited liability company are in excess of all liabilities of the limited liability company except liabilities to members on account of their contributions.

6. Sec. 10.50.150.(d) A member of a limited liability company may have the limited liability company dissolved and its affairs wound up when

(1) the member rightfully but unsuccessfully [unseccessfully] has demanded the return of his or its contribution, or

(2) the other liabilities of the limited liability company have not been paid, or the limited liability company property is insufficient for their payment and the member would otherwise be entitled to the return of his or its contribution.

7. Sec. 10.50.160(a) A member is liable to the limited liability company

(1) for the difference between his or its contributions to capital as actually made and his or its contributions to capital as [that] stated in the certificate of organization as having been made, and

(2) for any unpaid contribution to capital which he or it agreed [in the certificate of organization] to make in the future at the time and on the conditions stated in the certificate of organization.

8. Sec. 10.50.170. INTEREST IN LIMITED LIABILITY COMPANY; TRANSFERABILITY OF INTEREST. [(a)] The interest of all members in a limited liability company constitutes the personal estate of the member, and may be transferred or assigned as provided in the operating agreement; however, if all of the other members of the limited liability company other than the member proposing to dispose of his or its

interest do not approve of the proposed transfer or assignment by unanimous written consent, the transferee [transfer] of the member's interest shall have no right to participate in the management of the business and affairs of the limited liability company, or to become a member, but shall only be entitled to receive the share of profits or other compensation by way of income, and the return of contributions, to which that member would otherwise be entitled.

9. Sec. 10.50.180. DISSOLUTION. (a) A limited liability company organized under this chapter shall be dissolved upon the occurrence of any of the following events

(1) when the period fixed for the duration of the limited liability company shall expire;

(2) by the unanimous written agreement of all members; or

(3) upon the death, retirement, resignation, expulsion, bankruptcy, dissolution of a member or occurrence of any other event which terminates the continued membership of a member in the limited liability company, unless the business of the limited liability company is reconstituted [continued] by the consent of all the remaining members under a right to do so stated in the certificate of organization of the limited liability company.

10. Sec. 10.50.200(c) The form for evidencing an amendment to the certificate of organization of a limited liability

company shall be promulgated by the commissioner and shall contain terms and provisions, consistent with this chapter, which the commissioner determines. [The amendment shall be signed and sworn to by all members, and an amendment adding a new member shall be signed also by the member to be added, and thereafter duplicate] Duplicate originals of the amendment shall be forwarded to the commissioner for filing, accompanied by the requisite filing fee.

11. Sec. 10.50.230. FEES FOR FILING DOCUMENTS AND ISSUING CERTIFICATES. The commissioner shall charge and collect for:

(1) filing the original certificate of organization, if the capital of the limited liability company is:

Capital	Filing Fee
Not in excess of $100,000:	$ 100
In excess of $100,000 but not in excess of $250,000;	$ 250
In excess of $250,000 but not in excess of $500,000:	$ 500
In excess of $500,000 but not in excess of $1,000,000:	$ 750
In excess of $1,000,000:	$1,000

Capital	Filing Fee
Not in excess of $100,000	$ 100
$100,000 and not exceeding $250,000	$ 250
Exceeding $250,000 but not in excess of $500,000	$ 500
$500,000 to $1,000,000	$ 750
In excess of $1,000,000	$1,000

(2) for amending the certificate of organization, a filing fee of $25, together with the appropriate fee set out in (1) of this section if the amendment is to increase the amount of capital;

(3) for dissolution, $25;

(4) an annual tax of $100, due and payable January 2 of each year; this tax is delinquent if not paid by February 1 and an addition to the tax shall then be due of $50.

12. Sec. 10.50.250. REGISTERED AGENT. A limited liability company is required at all times to have a registered agent whose residence is in the state. The commissioner shall be notified upon any change in the name or address of the registered agent.

13. Sec. 10.50.260. APPLICATION TO FOREIGN AND INTERSTATE COMMERCE. The provisions of this chapter shall apply to commerce with foreign nations and among the several states only as permitted by law.

14. Sec. 10.50.270. APPLICABILITY OF THIS CHAPTER. This chapter takes precedence in the event of a conflict with the provisions of the Alaska Business Corporation Act or other laws. This chapter does not affect a right accrued or established, or any liability or penalty incurred, prior to the effective date of this Act.

15. Sec. 10.50.280. DEFINITIONS. In this chapter, unless the context otherwise requires

(1) "Bankrupt" means bankrupt under the Federal Bankruptcy Act;

(2) "commissioner" means the commissioner of commerce;

(3) "court" includes every court and judge having jurisdiction in the case;

(4) "limited liability company" means a limited liability company organized and existing under this chapter;

(5) "person" includes individuals, general partnerships, limited partnerships, limited liability companies, corporations, trusts, business trusts, real estate investment trusts, estates and other associations;

(6) "real property" includes land, any interest, leasehold or estate in land and any improvements on it.

16. Sec. 10.50.290. SHORT TITLE. This Act shall be known and may be cited as the Alaska Limited Liability Company Act.

April 29, 1975

Mr. Lawrence Gibbs
Assistant Commissioner (Technical)
Internal Revenue Service
Washington, D.C.

Dear Mr. Gibbs:

Enclosed is a copy of House Bill 403 which was introduced in the Alaska House of Representatives by Representative Richard K. Urion on April 9, 1975.

On April 24, 1975, the House Commerce Committee heard testimony on the proposed legislation by Mr. Miles S. Schlosberg, Director of Banking, Securities, Small Loans, and Corporations, Department of Commerce of the State of Alaska and Bernard J. Dougherty, Attorney with Cole, Hartig, Rhodes, Norman, Mahoney & Goltz, of Anchorage, Alaska.

Before acting on this proposed legislation we ask that you and your staff review it and issue to us an information letter in accordance with Treasury Regulations Section 601.201.(a)(5).

As the testimony was presented and as we understand the legislation and its interrelation with Treasury Regulations Section 301.7701 et. seq., the Limited Liability Company Act as proposed before the Alaska Legislature should be classified as a partnership for Federal Tax purposes because it lacks the corporate characteristics of continuity of life, free transferability of interest, and if the Certificate of Organization is drafted so that management is retained by the members, the Company will lack the characteristic of centralization of management. For these reasons, the testimony was, that the Limited Liability Company should be classified as a partnership for Federal Tax purposes.

We would appreciate it if you would have your staff review the enclosed legislation and give us your views on the matter in an information letter.

Kindest regards.

Very truly yours,

HB
468

"An Act relating to fire extinguishing systems; and providing for an effective date."

COMMITTEE REPORT

HOUSE

2/10/76

Mr. Speaker: Date 3/3/78

The Committee on COMMERCE has had SSHB 468 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

(X) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

Alaska State Legislature

House

JUNEAU ALASKA

February 18, 1976

MEMORANDUM

TO: Representative Bob Bradley,
Chairman, House Commerce Committee

FROM: Terry Berman, Administrative Assistant

SUBJECT: SSHB 468, HB 316

SSHB 468 is a response to requests from firefighters in the state for adequate safeguards against human injury during fires. It provides for the installation of sprinkler systems in buildings seven or more stories high. It was pointed out to Representative Sullivan by fire officials that sprinkler systems have always proved effective when installed throughout buildings. Building owners are given seven years to comply and until automatic systems are installed, they must have emergency escape devices.

HB 316 permits utilities to require deposits under regulations issued by the APUC. Additionally it provides that interest will be paid on deposits held for more than one year. Present APUC regulations provide that deposits cannot be held longer than two years if the customer has not been delinquent in payment more than once in twelve consecutive months nor had his service discontinued for reasons of delinquency However, such deposits do not bear interest for the consumer. Utility companies are free to invest the funds as they see fit. There is a hidden cost to the sonsumer in that he receives no interest on the money and after two years, the sum he had on deposit is worth less than when it was initially paid to the utility company.

PHONE 586-5451
586-2946

GORDON E. BRUNTON
REGIONAL FIRE MARSHAL
SOUTHEASTERN DISTRICT

STATE OF ALASKA
DEPARTMENT OF PUBLIC SAFETY
DIVISION OF FIRE PREVENTION

450 WHITTIER STREET
POUCH N
JUNEAU, ALASKA 99801

HB

509

TELEPHONE 312/236-3391

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HARVEY I. LAPIN
RICHARD M. PANICHI
AARON LEVINE
LAWRENCE A. ROBINS
LAWRENCE M. GRITTON

File

March 8, 1976

The Honorable Representative R.E. Bradley
Chairman, Joint Commerce Committee
Alaska State Legislature
Pouch V, State Capitol
Juneau, Alaska 99801

Dear Representative Bradley:

Thank you for sending me a copy of the revised House Bill No. 509. I noted with some interest the changes that were made apparently as a result of the hearing before the Commerce Committee during February in Juneau. It is apparent from the revision that the Committee did recognize the points made at the hearing to the effect that:

1. The licensing provision should not prohibit the offering to the public of the opportunity to purchase funeral merchandise and services on a pre-arranged basis; and

2. The trust provision related to pre-need sales should not be designed to affect the cemetery industry.

Unfortunately, the changes made in the revised draft did not clear all of the problems which were brought out in my prior letter to you - a copy of which is attached hereto for reference - and at the hearing by the various participants. In this regard I wish to draw your attention to specifically the following matters:

First, while the revision of subsection (7) of section 08.42.090 grounds for refusal to issue or renew licenses and suspension or revocations of licenses, (at pages 5 - 6 of the revised House Bill) is sufficient to allow pre-need sales, subsection (8), (9), and (10) still could be interpreted so as to limit the pre-need market. Please refer to my discussion of these particular sub-sections in the enclosed letter.

Second, the definition of mortuary science under section 08.42.10 subsection (3) is still broad and could be interpreted as including the interment in the cemetery. Perhaps it would be best to exclude from the definition cemetery operation.

Finally, the amendment to section 45.50.471(b) subsection (23) will still have the effect of eliminating the pre-arranged market for the reasons indicated in my letter and also in the testimony of several witnesses at the hearing. We noted the exemption for cemetery lots and markers, but even this is not sufficient since there are other items which are sold by cemeteries which would be included, as example, the exclusion does not cover mausoleum crypts or lawn crypts, both of which are currently being sold by cemeteries.

Attached hereto for your review is a copy of a proposed pre-need merchandise and service trust fund bill which adequately covers this area in a manner by which it can be controlled by the State and still allow for the consumer to have the opportunity to purchase these items on a pre-need basis. There are similar laws to the proposed bill in the States of Nevada and Hawaii. We, of course, are hopeful that the Committee will review this proposed legislation and perhaps adopt it instead of the present trust section which unfortunately does not cover many of the areas which will be confronted by the State in the operation of such a trusting provision. We, of course, would hope that your Committee would recommend the adoption of such a law for the State of Alaska but in any event the present trust provision must be amended to exclude from its provisions cemetery merchandise including lots, markers, mausoleum crypts, lawn crypts and any other item normally sold by a cemetery, as well as those items connected with a funeral service which are readily deliverable and not subject to being performed in the future.

I want to personally thank you for the courtesy extended to me at the hearing in Juneau and it was a great pleasure having the opportunity to not only meet you and the other members of the Committee, but to have the opportunity to testify. If there are to be any further hearings on this matter, I would appreciate your letting me know as soon as possible.

Cordially,

LAPIN, PANICHI & LEVINE, LTD.

Harvey I. Lapin

HIL:cb

cc: All members of the Joint Commerce Committee
Ms. Sharon Andrew

TELEPHONE 312/236-3391

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LAWRENCE M. GRITTON

January 29, 1976

The Honorable Senator Willis
Chairman of the Senate Commerce Committee
State of Alaska
Pouch V, State Capitol
Juneau, Alaska 99801

Re: House Bill 509

Dear Senator Willis:

Pursuant to our telephone conversation on January 28, 1976 I would like to expand on the comments which I made regarding House Bill 509. This Bill, as you know, is very specialized legislation dealing with a complicated subject of which many people are not extensively informed. Since I suspect that the proponents of this legislation have no doubt indicated that it is required in order to protect the consumers of the State of Alaska my comments will be structured in response.

While a great deal of beneficial legislation has been enacted in recent years for that purpose of protecting the consumer, in some instances legislation to protect the need of special interests has unfortunately been enacted under the same auspices. House Bill 509 probably falls within that latter category. I further suspect that in all probability no consumers have been consulted about the need for the protection that they are about to receive. It might therefore be interesting to examine this law from the point of view of the consumer.

On the basis of my briefly outlined background, you no doubt are aware that my interests are primarily involved in advising clients in the cemetery industry though I do represent several clients throughout the country who are also in the funeral business. Attached hereto for your reference is a copy of my current biography solely for the purpose of giving you some idea of my background.

The first section of proposed House Bill 509, section 08.42.020, deals with the licensing provisions for morticians. I certainly am in agreement with the concept that individuals who deal with the public and claim a certain expertise in specialized areas should be licensed. However, I am concerned about establishing classifications which may tend to mislead the public. I therefore notice with some interest the creation by statute of a new science, namely the practice of "mortuary science." It is quite evident from the FTC Staff Report on funeral industry practices that the industry has promoted and encouraged the concept of professionalism throughout the country. Query! whether this new classification may be giving substance to this concept in a manner which may be used in the future to mislead a consumer as to the credentials of the practitioner. Secondly in the licensing area, if these requirements have merit then they must have equal merit for those who are presently practicing in the state. Since a new licensee and even someone coming from another state are required to meet these qualifications and take an examination, it seems questionable as to how the consumer is protected by not imposing the same requirement on those presently engaging in this occupation in the state.

The next area of the statute on which I would like to comment is section 08.42.090 dealing with the grounds for refusal to issue or renew licenses. Many of these grounds for terminating a license are well founded and just reasons for acting. However, some of these are designed to appear to be basis for revoking a license, but in fact are designed to restrict or prevent competition in the marketplace and to assure that no sales of funeral merchandise or services will be made in advance of the time immediately subsequent to death when a consumer is least able to properly consider the various alternatives available. This concept can be easily illustrated by reviewing some of the grounds for revocation of a license. The primary grounds of concern are as follows:

Subsection (8) which provides "Solicitation of a dead human body by the licensee, his agents, servants or employees, whether solicitation occurs before or after death; but this does not prohibit general advertising;" This section obviously is intended to prevent the despicable practice of "body snatching". However, the language used is broad enough to not only cover that practice but to also prevent any licensee from soliciting the consumer to make funeral arrangements on a pre-need basis. Is the consumer protected by being prevented from considering the availability of various types of funeral arrangements in advance of need? Obviously, if the proponents only are

concerned with the body snatching problem the language of subsection (8) could be revised to accomplish that problem without limiting the pre-arrangement market, i.e. "solicitation of a dead human body by the licensee, his agents, servants or employees, whether solicitation occurred immediately before an impending death or after death; but this does not prohibit general advertising or sales made on a pre-arranged basis.

Subsection (9) "Employment by the licensee of any person for the purposes of calling upon individuals or institutions to influence them to turn over a dead human body to a particular mortician;" This subsection also is intended to deal with the body snatching problem by preventing the use of non-licensed individuals to accomplish the same purpose. This particular language has been used as the basis in other states from preventing licensees or their agents from discussing pre-arrangement plans on a low cost basis with nursing homes, welfare hospitals and other organizations interested in making these types of arrangements. Clearly this section should be adjusted to allow that type of contact.

Subsection (10) "The direct or indirect payment or offer of payment for the purpose of securing business." The obvious intent of this section is to prohibit kickbacks or bribes to individuals who would be steering business to a particular funeral home. However, the manner in which the section is stated is broad enough to also prevent a funeral director from employing salesmen who might be contacting members of the public to discuss pre-arrangement plans. This provision should be restated to eliminate the phrase "securing business" and inserting after "obtaining a dead body by the licensee, his agents, servants or employees immediately before an impending death or after death." The intended purpose would still be accomplished without affecting the pre-arranged market.

Subsection (11) "Solicitation or acceptance by a licensee of any payment for recommending or causing a dead human body to be disposed of in a specific crematory, mausoleum or cemetery." This section was intended to prevent licensees from accepting kickbacks for recommending to someone that they use a specific crematory, mausoleum or cemetery. Again, we do not object to the prohibition in this manner of a practice which might be harmful to consumers. The language as it presently is however could also have the effect of preventing a licensee who also owns a crematory, mausoleum or cemetery from recommending his own property, or entering into a pre-arranged funeral and burial sales package with a crematory, mausoleum or cemetery in which they have a financial interest. There is a

trend in the funeral and cemetery industry to establish combination funeral homes and cemeteries. The reasons for this trend are the obvious cost savings connected with the elimination of substantial equipment such as limousines and labor saving through the dual use of personnel, since funeral home personnel are often only occupied at the time of a funeral and often have free time. It is our understanding that this trend has also been followed in Alaska. If subsection (11) is not limited in its scope it could prevent a consumer from obtaining the benefits of these cost savings. In order to avoid this unintended result, I would suggest the following changes. After the word "body" I would insert the phrase "immediately before an impending death or after death" and at the end of the phrase after "cemetery" I would insert the following "provided however that nothin herein shall prevent the recommendation or solicitation for sales of space and merchandise in a specific crematory, mausoleum or cemetery if said licensee has an ownership interest in said specific crematory, mausoleum or cemetery and such ownership interest is disclosed at the time of the solicitation, recommendation or sale."

The next section of the Act of which I have some difficulty is the definition section 08.42.10. The definition number (3) "mortuary science" is broad enough to cover the operation of a cemetery, crematory and mausoleum in that the phrase "preparing dead human bodies for burial by means other than embalming, disposing of dead human bodies, or operating a place for the care or disposition of dead human bodies" could certainly be construed to cover the activities of cremating and interment in a cemetery or entombment in a mausoleum. Cremation, interment and entombment are normally understood in both industries to be within the area of disposition of dead human bodies. I would suggest that this definition be amended so as to specifically exclude these areas. The following might be appropriate: "but shall not include those services normally performed by a cemetery, crematory or mausoleum."

The next area for consideration is the disclosure of cost provision, section 45.45.120. This provision is an attempt in part to conform the laws of the State of Alaska with some of the findings of the proposed Trade Regulation Rule of the FTC. However, it is not as extensive as the requirements of the proposed Rule. In this regard I would suggest that you take a look at section 453.5 of the proposed Rule at page 15 of the Staff Report. In particular subsection (e) at page 16 which requires itemization of all items involved in the funeral service. The proposed Alaska Bill does not provide for an itemization of the various items in the basic service, so the consumer does not have the opportunity to determine as to whether they want or need all of these basic services.

Finally, we get to the amendment to section 45.50.471 subsection (22) at page 8 which requires that all of the proceeds from "...contracts relating to the disposition of a body upon death whereby certain personal property will be furnished or the professional services of a funeral director or embalmer will be furnished..." to be deposited into a trust. This section is probably the most obvious section designed with the intention of preventing any pre-arranged sales, thereby limiting the market to the at-need time when the consumer is most apt to be subject without control to the sales techniques of the funeral director. In this regard I draw your attention to the proposed Trade Regulation Rule section 453.4 merchandise and service selection starting at the bottom of page 13 of the Staff Report, which indicates some of the methods used to maximize sales at this time. I also draw your attention to the statement at page 2 of the Report as follows:

> "Each year millions of families are forced by the death of a relative to make one of the largest consumer purchases under severe handicaps of time pressure, emotional distress and lack of information, or experience. As an FTC hearing examiner noted long ago there are few if any industries where the ultimate consumer is do disadvantaged or where his normal bargaining power is so deluded in a situation of such immediate need."

It is also of note at page 4 of the Report that the Commission has recognized the general marketing strategy of the industry as follows:

> "It is enough to say that the general marketing strategy of much of the industry seems to follow the following precepts: (1) eliminate low cos alternatives to the standard funeral through contr of laws, regulations and codes of ethics, (2) use a ny means possible - laws and regulations, propagan a, refusal to deal - to stunt the development of memorial societies or pre-need societies which can bargain on behalf of the consumer in a non-emotional concept."

The last section of House Bill 509 was intended and will have the effect of eliminating any businessman in the State of Alaska from engaging in pre-need sales.. The reasons are very obvious. No seller would make a binding commitment to perform in a situation where 100% of the proceeds to be derived were required to be placed into a trust fund with the accrued interest being retained in the trust and the purchaser having the unlimited right to demand a refund at any time up to and including the time immediately before the services and merchandise are to be used and delivered. This is

particularly true since it would be necessary for such a seller to fund promotional sales costs and commissions to salesmen who would be making such sales. It is our understanding that there is an active pre-arranged funeral and burial market in the State of Alaska. If this section is enacted in its present form it will no doubt prevent any future sale by those sellers presently engaged in this market. Query! does it protect the consumer to eliminate the availability of an alternative to the recognized harmful bad practice of requiring consumers to make these necessary purchases only at the time when they are least able to properly handle these arrangements.

This does not mean that I am opposed to any type of legislation in this area. There are recognized problems involved with pre-need sales and the consumer is entitled to some protection. However, protection does not mean elimination. Further, only in the funeral industry has the 100% trust concept been used to the obvious advantage of those trying to maximize their market strategy by eliminating opposing marketing forces. If this concept was followed in other industries, as example the insurance industry where the obligation is to provide funds at the time of death, there would be no insurance industry.

As I indicated to you other states have dealt with this problem. Unfortunately, many of them have blindly followed the 100% concept and as a result there is no pre-arrangement market in those states. Some states have dealt with the subject on a realistic basis and have made provisions which have not stifled the market but have protected the consumer. While we are not recommending to you the adoption of any specific legislation from another state on this subject, we would point out that the section as presently proposed does not cover a lot of areas which should be covered in any legislation of this type. Some of these areas are as follows:

1. There should be some definitions of the type of merchandise to be covered, as example what does "certain personal property" mean? Does this phrase include the various types of personal property normally sold by cemeteries and other related industries on a pre-need basis, such as markers, memorials, monuments, etc.?

2. Many of the states have licensing requirements to make sure that sellers will meet certain specifications and not be "fly by night" operators. It seems relatively clear that the proponents of this Bill were not concerned with any of these aspects since the intention is not to promote this type of selling but to eliminate it.

3. Other unanswered questions are:

(a) what happens if someone does not put the money into trust?
(b) how are the trust funds to be invested?
(c) can they be commingled by the bank for investment purposes? If not, you have just set up a requirement whereby every bank must keep separate accounts for each individual.
(d) has anyone consulted the banks as to whether they would be willing to undertake this obligation and if so is the bank allowed a fee on this money?
(e) if the merchandise is delivered or deliverable, why should a seller not be entitled to withdraw the funds?
(f) why should the seller be bound for the total time of the trust to deliver the merchandise and services when the consumer has no obligation?

This section is really not for the purpose of giving the consumer the unlimited right of refund to protect their interest. Its intention is to allow the funeral director at the time of need to convince anyone who may have made such arrangements that they have better merchandise available which could be acquired with the funds set aside in the account rather than that merchandise previously bought on a pre-arranged basis. It further allows the funeral director to upgrade a consumer at the time of death because they have already funded a portion of the costs and an additional amount may not be a problem at that time.

If the intended effect were to merely protect the public other means could have been utilized to provide the same type of protection to the consumer and still allow sellers to engage in the marketing of pre-arranged funeral and burial merchandise. Analogous types of sales where delivery is deferred, protection such as performance bonds, insurance, actuarial computed holdbacks and funded guarantee programs have been used to successfully protect the consumers. Only in the area of pre-need selling of funeral and burial merchandise have laws been used under the guise of protecting the public to prevent competition from entering the marketplace. It is our position that a law which requires the funding of an unrealistic percentage of sales proceeds with the unrestricted right of refund was intended to restrict the marketplace and not to protect the rights of consumer.

We are attaching as exhibits copies of laws enacted in the States of Florida, Louisiana and Virginia dealing with the problem of pre-need sales of merchandise and services on a more realistic basis. In all cases the amounts required to be deposited are less than 100% of the proceeds. Certainly the proponents of this Bill should not

object to this type of treatment, if they in fact are only concerned with consumers' interests and not merely protecting their interest in the market. In this regard we must point out that the details of an interment service are not dissimilar to that of the funeral service.

As I advised you, the Federal Trade Commission is presently dealing with this subject in connection with the proposed Federal Trade Regulation Rule. It is our understanding that hearings on this subject will being on or about April 15 of this year. I am sure that you will be able to obtain further information on these matters by contacting the hearing examiner who is to conduct these hearings throughout the country, Mr. Jack Kahn, whose number in Washington is 202 724 1152. You might also be interested in discussing the area with the staff of the FTC who conducted these investigations. Arthur Angel, Esq. is the primary staff attorney on this project, his number is 202 523 3871. If he is not available, you might also talk to William Golden who participated extensively in the project (202 523 3171).

We are hopeful that we have been able to demonstrate that it is possible that the interest of the consumers may not be protected by the proposed House Bill 509. I would also hope that we have brought to your attention the fact that this area is being extensively covered in connection with the FTC hearings, the results of which may be very helpful to you in evolving legislation in this area. It would be our recommendation that perhaps it would be worthwhile for your Committee to table this proposed House Bill until such time as it could obtain the benefits of the results of this investigation and the proposals which no doubt will be forthcoming as a result. Alaska might then be in the forefront of enacting legislation which in fact would be in the best interests of the consumer in one of the most important areas of our day to day life, rather than enacting legislation which is probably intended to restrict the marketplace rather than to benefit the consumer.

I enjoyed our conversation the other day and would be extremely willing to provide you with any further information or comments you may desire. Please feel free to contact us at any time.

In the event I should not be available, my associate Lawrence Robins is extremely conversant with these areas and could no doubt be helpful.

Very truly yours,

LAPIN, PANICHI & LEVINE, LTD.

Harvey I. Lapin

HIL:cb

encs

cc: The Honorable Representative Robert Bradly

PRE-NEED MERCHANDISE AND SERVICES TRUST FUND

Section 1. Definitions.

As used in this Act:

(a) "Agent" means an individual authorized by a seller to offer, or sell or solicit the purchase of a pre-need contract on behalf of the seller.

(b) "Beneficiary" means the person for whose benefit funeral and/or cemetery merchandise or services are furnished or performed pursuant to a pre-need contract, whether it be the buyer of such a contract or someone else designated by the buyer.

(c) "Buyer" means the purchaser of a pre-need contract.

(d) "Cemetery Company" means any individual, partnership, corporation or association, owning or controlling cemetery lands or property and engaged in the operation of cemetery business in this state.

(e) "Cemetery merchandise" means those items normally supplied by a cemetery company under a pre-need contract, including urns, vases, grave liners, burial vaults, crypts, memorial bases, and other similar merchandise, but does not include the sale of interment, entombment or inurnment space.

(f) "Cemetery services" means those services normally performed by a cemetery company under a pre-need contract for the opening and closing of graves, crypts and niches, foundation installation, and other services in relation thereto.

(g) "Department" means the Department of Commerce.

(h) "Funeral establishment" means any individual partnership, corporation or association owning or controlling a properly licensed funeral home engaged in operation in this state.

(i) "Funeral merchandise" means those items normally supplied by a funeral establishment under a pre-need contract, including caskets, burial vaults, clothing and other similar merchandise.

(j) "Funeral services" means those services normally performed by a funeral establishment under a pre-need contract, for funeral services.

(k) "Person" includes natural persons, partnerships, firms, associations, and corporations residing in or doing business in this State.

(l) "Pre-need contract" means a contract for the purchase of funeral and/or cemetery merchandise or services to be furnished or performed at a future date for a specific consideration which is paid in advance by one or more payments in one sum or by installment payments.

(m) "Seller" means any person selling a pre-need contract.

(n) "Trust fund" means funds deposited with a trustee by a seller pursuant to a pre-need contract.

(o) "Trustee" means any state or national bank, trust company, or federally insured savings and loan association authorized to transact such business in the State of Alaska, and designated as trustee of the trust fund in a pre-need contract.

Section 2. Application.

Except as hereinafter provided, no person or other legal entity shall, directly or indirectly, solicit or enter into a pre-need contract for the sale of funeral and/or cemetery merchandise or services which may be used in connection with the final disposition, burial or commemoration of the memory of a deceased human

being if delivery of the funeral and/or cemetery merchandise or services thereunder is to be made at an uncertain future date, such as at death, or more than one hundred and twenty (120) days after receipt of the final payment under such pre-need contract.

Section 3. Seller's Certificate of Authority: Application Contents; Supporting Documents; Fee.

(a) No person shall sell pre-need contracts without first obtaining a certificate of authority from the Department as hereinafter provided.

(b) The proposed seller or appropriate corporate officer of the seller shall make application in writing to the Department for a seller's certificate of authority, showing:

(1) The proposed seller's name and address and his occupation during the preceding five (5) years;

(2) The name and address of the proposed trustee;

3) The names and addresses of the proposed performers, specifying what particular services, supplies and equipment each performer is to furnish under the proposed pre-need contract; and

(4) Such other pertinent information as the Department may reasonably require.

(c) The application shall be accompanied by:

(1) The applicant's fingerprints on a form furnished by the Department;

(2) A copy of the proposed trust agreement and a written statement signed by an authorized officer of the proposed trustee to the effect that the proposed trustee understands the nature of the proposed trust fund account and accepts it;

(3) A copy of each contract or understanding, existing or proposed, between the seller and performers relating to the proposed pre-need contract or items to be supplied under it;

(4) A copy of each document relating to the proposed seller, trustee, trust, or pre-need contract, as may be required by the Department; and

(5) A fee of twenty-five ($25.00) dollars, no part of which is refundable.

Section 4. Seller's Certificate of Authority: Issuance; denial.

(a) If the Department finds that the application is complete, that the seller is in compliance with all requirements therefor, that the applicant otherwise qualifies under the provisions of this chapter, and upon satisfactory evidence that a funeral and/or cemetery merchandise and service trust fund has been established, he shall issue a seller's certificate of authority to the applicant.

(b) The Department shall refuse to issue a seller's certificate of authority to any applicant who does not comply with or otherwise meet the requirements of this chapter. Upon such refusal, the Department shall give written notice thereof to the applicant setting forth the reasons for such refusal.

Section 5. Seller's Certificate of Authority: Expiration; Renewal; Renewal Fee.

(a) Each seller's certificate of authority issued pursuant to this chapter shall expire at midnight on April 30 next following its date of issuance.

(b) The Department may renew from the seller, accompanied by a renewal fee of twenty-five ($25.00) dollars, if he finds that the seller is, at that time, in compliance with all applicable provisions of this chapter.

Section 6. Seller's Certificate of Authority: Revocation; Suspension.

(a) After giving written notice of charges to the to the seller, not less than thirty (30) days in advance of hearing, the Department may, after hearing, revoke the seller's certificate of authority if the seller:

(1) Obtained his certificate of authority through misrepresentation or concealment of a material fact;

(2) Is no longer qualified for such certificate of authority; or

(3) Violates any provision of this chapter or any lawful order or rule or regulation of the Department.

(b) If a seller is found guilty under paragraph (3) of subsection (a), the Department may, in lieu of revocation, suspend his seller's certificate of authority for a period not to exceed ninety (90) days.

Section 7. Surety Bond.

(a) Prior to the issuance of a certificate of authority to a seller, the seller shall post with the Department and thereafter maintain in foce a bond in the principal sum of fifty thousand ($50,000.00) dollars issued by an authorized corporate surety in favor of the State of Alaska, or a deposit made up of cash or negotiable securities. If a deposit is made in lieu of a bond, the deposit shall at all times have a market value of not less than the amount of the bond required by the Department.

(b) In lieu of posting the entire amount of the bond or deposit required under subsection (a), the Department may approve the posting of a bond or deposit in the amount of five thousand ($5,000.00) dollars or

multiple thereof, not to exceed fifty thousand ($50,000.00) dollars, if he finds that the circumstances and status of the applicant's business do not immediately warrant the posting of a bond or the full amount of the bond or deposit for the purposes provided in subsection (c). If less than the amount of the bond or deposit is posted by the applicant, the Department may require him to post an additional bond or deposit of five thousand ($5,000.00) dollars or multiple thereof each following year until the required maximum of fifty thousand ($50,000.00) dollars is met. The Department may require a quarterly report if no bond is required.

(c) The bond or deposit shall be held for the benefit of buyers of pre-need contracts and other persons as their interests may appear, who may be damaged by misuse or diversion of moneys by the seller or his agents, or to satisfy any judgments against the seller for failure to perform a pre-need contract. The aggregate liability of the surety for all breaches of the conditions of the bond shall, in no event, exceed the sum of such bond. The surety on the bond shall have the right to cancel such bond upon giving sixty (60) days' notice to the superintendent and thereafter shall be relieved of liability for any breach of condition occuring after the effect date of such cancellation.

(d) The Department:

(1) Shall release the bond or deposit after the seller has ceased doing business as such and the Department is satisfied of the nonexistence of any obligation or liability of the seller which the the bond or deposit was held; or

(2) May reduce the bond or deposit in five thousand ($5,000.00) dollar increments if he finds that the circumstances and status of the applicant's business warrant such reduction.

Section 8. Agent's License: Requirement; Exception.

(a) It is unlawful for any person to solicit the sale of pre-need funeral and/or cemetery merchandise and service contracts in this State on behalf or a seller unless he holds a valid Agent's license issued by the Department.

(b) This section does not apply to a seller who is an individual holding a valid seller's certificate of authority.

Section 9. Agent's License: Application; Fee.

(a) To qualify for an agent's license, the applicant shall execute and file a written application with the Department on forms furnished by the Department.

(b) The application shall:

(1) Require information concerning the applicant's identity, address, personal background and business, professional or work history;

(2) Contain such other pertinent information as the Department may require.

(3) Be accompanied by a filing and license fee of five ($5.00) dollars, no part of which is refundable.

Section 10. Agent's License: Issuance; Temporary Permits.

(a) If the Department finds that the application is complete after all investigation not to exceed thirty (30) days, it shall issue at the request of the holder of a valid seller's certificate of authority an agent's license to the applicant.

(b) An applicant for an agent's license may receive a temporary agent's permit, for a period of not to exceed thirty (30) days, at the request of a holder of a valid seller's certificate of authority, provided that each sales agreement sold by a temporary agent shall be cosigned by a licensed agent of a valid seller's certificate of authority.

Section 11. Agent's License: Expiration; Renewal; Renewal Fee; Voiding.

(a) Each agent's license issued pursuant to this chapter shall expire at midnight April 30 next following its date of issuance.

(b) An agent's license may be renewed at the request of the holder of a valid seller's certificate of authority upon filing a written request for renewal accompanied by a five ($5.00) dollar renewal fee.

(c) An agent's license becomes void unless he is employed by a holder of a valid seller's certificate of authority.

Section 12. Pre-Need Contracts: Content; Entire Agreement; Rescission.

(a) All pre-need contract forms offered or sold in this State shall contain:

(1) The names and addresses of the seller, buyer, beneficiary, and trustee;

(2) A clear and unambiguous statement of the services and merchandise to be supplied and by whom;

(3) The purchase price of each item of supply or service and how payable;

(4) The date and place of execution;

(5) The full percentage of sales commission to be retained by the seller;

(6) The seller's or his agent's signature on the original contract and his identification by name and title on any duplicate copy of such contract given to the buyer;

(7) A provision in 10-point boldface type or larger, stating in substance that the buyer shall be permitted to return the contract within ten (10) days of its delivery to the buyer and to have the full purchase price or amount paid thereon refunded if the buyer is not satisfied with it for any reason;

(8) In print on its face sheet, in 10-point boldface type or larger, a notice stating, "This is not an insurance contract."; and

(9) Other reasonable and appropriate provisions.

(b) The written contract, when signed, shall constitute the entire agreement between the parties relative to its subject matter. All obligations of both parties shall be fixed, and enforceable by the other parties to the contract.

(c) Any provision in a written contract that allows the seller to escalate the purchase price due to inflation or rising costs or otherwise shall be void, and of no force and effect unless the buyer is furnished at least six months prior to performance of a pre-need contract with written notice by the seller of his intention to escalate and the amount of the escalation does not exceed an amount sufficient to cover extra-ordinary cost increases in excess of the normal cost of living increases experienced by the seller. Such notice of escalation shall be effective five (5) days

after receipt thereof by the buyer.

(d) If the buyer, pursuant to the provision required by paragraph (7) of subsection (a), returns the contract to the seller at its branch or home office or to the agent through whom it was purchased, the contract shall be void from the beginning and the parties shall be returned to the same position they occupied before the contract was entered into.

Section 13. Pre-Need Contracts: Approval; Disapproval of Forms.

(a) A seller shall not offer, sell or deliver in this State any pre-need cemetery contract unless the form of such contract has been filed with and approved in writing by the Department.

(b) The Department shall disapprove any such form of contract which he finds:

(1) Printed or reproduced in such a manner as to be substantially illegible in whole or in part;

(2) Contains ambiguous or misleading provisions, clauses or titles.

(3) Does not comply or is inconsistent with any applicable requirement of this chapter; or

(4) For other good cause shown.

(c) No amendment or modification of any such form shall be made unless the amendment or modification has been filed with and approved in writing by the Department.

(d) Each filing is subject to a waiting period of up to thirty (30) days before it becomes effective.

(e) A filing shall be deemed to meet the requirements of this chapter unless disapproved by the Department within the waiting period or any extension thereof.

Section 14. Pre-Need Contracts: Credit Life Insurance.

The seller may make available to buyers, under deferred payment, pre-need contracts for credit life insurance on a form and terms filed with and approved by the Department. The buyer must be provided with a certificate of such credit insurance as otherwise required by the Department.

Section 15. Funeral and/or cemetery merchandise and service trust fund: Payments to trust; amounts required; administration; duty of care.

(a) Any cemetery company, funeral establishment or other seller entering into a pre-need contract wherein the delivery of the funeral and/or cemetery merchandise or services is to be made at an uncertain future date, such as death, or more than one hundred twenty (120) days after receipt of the final payment under such contract shall deposit into a trust fund established for that purpose fifty percent (50%) of the gross receipts, less sales taxes, for the sales of such funeral and/or cemetery merchandise or services. Upon proper certification of costs to the Department, any cemetery company, funeral establishment or other seller with the written approval of the Department may deposit into the trust fund an amount comprising one hundred and ten percent (110%) of such cost in lieu of the fifty percent (50%) requirement.

(b) Each deposit herein required shall be paid into the trust fund so established within twenty (20) days after the close of the month of receipt from the buyer by the cemetery company, funeral establishment or other seller, except that the entire amount required to be deposited based upon the sales price, less sales taxes, shall be so deposited in trust within seven (7) years from the date of the original sale, regardless of whether or not all amounts due therefor shall have actually been paid.

(c) The trust fund shall be administered by a trustee in accordance with a written trust instrument.

(d) The trustee shall, with respect to such trust funds, exercise the judgment and care under the circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering

the probable income as well as the probable safety of their capital; provided however that the cemetery company, funeral establishment or other seller may appoint an individual or committee of two or more individuals to act in an advisory capacity with the trustee in the investment of the trust fund and that the cemetery company, funeral establishment, or other seller with the consent of the Department, may change the trustee of the trust fund. Within the limitations of such standards, and subject to any express provision or limitation contained in any particular trust instrument, a trustee is only authorized to acquire and retain fixed investments specifically including, but not limited to, certificates of deposits, bonds, debentures and other corporate obligations, which men of prudence, discretion and intelligence acquire or retain for their own account.

(e) Each deposit into any such trust fund shall be identified by the cemetery company, funeral establishment or other seller by furnishing the trustee and the buyer with the name of the buyer, the amount of the retail sales price, and the amount of money required to be deposited, together with a copy of the contract of sale. The cemetery company, funeral establishment or other seller shall allocate to each separate account its share of the total income earned in each calendar year, based upon the proportion that the principal balance in each said account bears to the total principal balances in all such accounts. For this purpose each deposit made before June thirtieth of each year shall be considered as having been made on the first day of the year, but deposits made after June thirtieth shall not participate in the distribution of income earned during that calendar year. The trustee may commingle the deposits in such trust fund for purposes of the management thereof and the invest-

ment of funds therein. Annually, the trustee shall advise the cemetery company, funeral establishment or other seller of the amount of income received by the whole fund for that calendar year. The cemetery company, funeral establishment or other seller shall keep detailed records of the amount of money deposited from time to time.

(f) In the administration of the trust fund, the trustee shall be liable only for bad faith and wanton negligence, and shall be entitled to rely upon advice of independent counsel; and upon doing so in good faith, such trustee shall have no liability for such acts or actions.

Section 16. Funeral and/or cemetery merchandise and service trust fund: Withdrawals from trust; inability of seller to perform; default of buyer.

(a) The funds shall be held in trust both as to principal and income earned thereon, and shall remain intact, except that the costs of operation of the trust may be deducted from the income earned thereon, until delivery of the merchandise is made or the services are performed by the cemetery company, funeral establishment or other seller or until the death of the beneficiary. Upon delivery of said merchandise or performance of the services, the cemetery company, funeral establishment or other seller shall certify such delivery or performance to the trustee and the amount of money plus income on deposit with trustee to the credit of that particular contract. Upon such certification, or in case of death prior to such certification, and upon submission of a certified copy of a death certificate, the amount of money on deposit to the credit of each particular contract, including principal and income earned thereon, shall be forthwith paid to the cemetery company, funeral establishment or other seller. The trustee may rely upon all such certifications herein required to be made and shall not be liable to anyone for such reliance.

(b) If for any reason a cemetery company, funeral establishment or other seller that has entered into a contract for the sale of funeral and/or cemetery merchandise or services and has made the deposit into the trust fund as herein required to be made cannot or does not provide the funeral and/or cemetery merchandise

or perform the services called for by the contract within a reasonable time after request in writing to do so, the buyer or his heirs or assigns or duly authorized representative shall have the right to provide such funeral and/or cemetery merchandise or services, and, having done so, shall be entitled to receive the deposit to the credit of that particular contract. Written instructions to the trustee by the cemetery company, funeral establishment or other seller directing the trustee to refund the amount of money on deposit, or an affidavit by either the buyer or one of his heirs or assigns or duly authorized representative, stating that the funeral and/or cemetery merchandise or services were not provided, shall be sufficient authority for the trustee to make refund of the funds on deposit to the person submitting the affidavit. The trustee shall not be held responsible for any such refunds made on account of the cemetery company's, funeral establishment's, or other seller's written direction or an affidavit submitted in accord with this section. However, nothing herein contained shall relieve the cemetery company, funeral establishment or other seller from any liability for non-performance of the contract terms.

(c) If the cemetery authority or other seller cannot deliver the funeral and/or cemetery merchandise sold because of a national emergency, the provisions of subsection (b) shall be suspended for the duration of said emergency and for fifteen days following the termination thereof.

(d) If the buyer defaults in making payments, the cemetery company, funeral establishment or other seller shall have the right to cancel the contract and to withdraw from the trust fund the entire balance to the credit of the defaulting buyer's account as liquidating damages. In such event, the trustee shall deliver said balance to

the cemetery company, funeral establishment or other seller upon its certification, and upon receiving said certification the trustee may rely thereon and shall not be liable to anyone for such reliance.

Section 17. Funeral and/or cemetery merchandise and service trust fund: Payments to purchaser; change of domicile.

If after final payment a buyer moves his domicile to a point that makes delivery of the funeral and/or cemetery merchandise or services impossible or impractical, the trustee shall refund to the buyer the principal amount of money on deposit to the credit of that particular contract, including the income earned thereon. In the event that the amount refunded hereunder is less than seventy-five (75%) percent of the principal amount paid by buyer under the terms of the pre-need contract then seller shall pay to buyer the difference between the amount refunded and seventy-five (75%) percent.

Section 18. Trust funds exempt from attachment, other process.

In the absence of fraud all trust funds held or invested in accordance with the provisions of this chapter are not liable to attachment, garnishment or other process, or to be seized, taken, appropriated or applied to pay any debt or liability of the seller, buyer or beneficiary by any legal or equitable process or by operation of law.

Section 19. Records and reports of sellers, trustees.

(a) Every seller shall keep accurate accounts, books and records of all transactions, copies of all agreements, dates and amounts of payments made and accepted, the names and addresses of the contracting parties, the persons for whose benefit such funds are accepted and the names of the depositories in which such funds are deposited. Every trustee handling trust funds under the provisions of this chapter shall

file with the Department quarterly, a financial statement for each trust account required to be maintained by the seller, on forms prescribed and adopted by the Department. Every annual report shall be accompanied by a fee of $10. If such statement is not received by the Department as required he may, after giving 10 days' notice, revoke the seller's certificate of authority.

(b) The seller shall keep within this state, at the address shown upon the certificate of authority, complete records of all transactions under his certificate of authority. Such records and the affairs of the seller shall be subject to audit and examination by the Department at any reasonable time.

(c) The seller shall keep such records for a period of not less than 5 years after the completion of all transactions to which they relate.

Section 20. Nonwaiver of provisions; retroactive effect; penalties.

(a) Any provision of any contract for the sale of personal property or the performance of services herein contemplated which waives any of the provisions of this chapter shall be void.

(b) Anything herein to the contrary notwithstanding, the provisions of this chapter shall apply only to contracts that are entered into subsequent to July 31, 1974.

(c) Any cemetery company, funeral establishment or other entity, as defined in this chapter, failing to make the required deposits to the trust fund or otherwise violating the provisions of this chapter shall be guilty of a misdemeanor, punishable by fine of not less than two hundred dollars or more than one thousand dollars, or by imprisonment of not less than thirty days nor more than one year, or both, and each violation of this chapter shall constitute a separate offense.

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

FEDERAL TRADE COMMISSION

Seattle Regional Office
28th Floor Federal Building
915 Second Avenue
Seattle, Washington 98174
(206) 442-4655

February 11, 1976

Representative Bob Bradley
Chairman, House Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Bradley:

In connection with the hearing on substitute bill 509 to be held on Friday, February 13, this office would like to respectfully submit some comments, in regard to both the overall philosophy of this legislation and on specific provisions of the proposed bill. We are sorry we are unable to be in Juneau in person so as to facilitate a dialogue, but we want you to have our thoughts nonetheless.

Need for Licensing

Since the bill sets up a new licensing provision for funeral directors, a basic inquiry is, should such licensing be instituted at all, in view of its increased cost to the tax payer and basic restrictiveness in denying access to the profession to some people. This letter is not addressed to embalmer licensing.

It could be strongly argued that funeral directors (as opposed to embalmers) are not so unique and specialized with regard to their required skills that licensing of the funeral direction function is necessary in the public interest. A good funeral director is basically a good administrator who has knowledge of his business and how to operate it the same as the operator of other business establishments selling goods and services.

An important point in connection with the question of whether there is a need for licensing is whether other, less restrictive methods, will not be equally as effective. The answer

is that it appears that the only substantive inhibitory provisions of the bill which are either (1) not already covered by existing state law (such as false or misleading advertising -- see Alaska's "Little FTC Act" administered by the Attorney General and local officials) or (2) not related to the obtaining of a license, are certain provisions in 8.42.090. If the problem lies in the need to prohibit some of these activities (a few of which will be commented upon later in further detail), a law could be passed prohibiting funeral directors from engaging in these practices and rendering them subject to a civil suit by the Attorney General and/or local officials to enjoin them from engaging in any such practices.

We note that there is a grandfather clause in the legislation. This, of course, raises a question as to whether there are currently practices being engaged in which call for licensing legislation. If such is the case, all those engaging in such practices will nevertheless automatically receive licenses. If practices which would be violative of the bill are not being engaged in, a question is raised as to whether there is a need for the bill.

Permits to Operate Funeral Home

Perhaps it is also appropriate to raise the question as to why a separate funeral home permit is necessary in addition to a licensing provision. This seems to be "dual licensing" and unduly restrictive.

Advertising and Solicitation

Subsections 8, 9 and 10 of 8.42.090 are all directed at the payment of money and personal solicitation in order to obtain funeral business. Whether these provisions are contained in a licensing statute, or set up separately as outlined above, we feel that they should be amended to make clear that their purpose does not pertain to any type of advertising. For instance, if personal solicitation by a licensee or his employee is meant, the statute should be written to encompass only personal solicitation by direct or telephone contact. In connection with subsection 8, is the phrase "general advertising" to be interpreted as an opposite of "specific" advertising, such as price advertising or other specific references? If so, it should be amended to make clear that all advertising is permitted.

Subsection 10 is written so broadly as to be easily interpreted as an advertising prohibition. If it is intended to prohibit payments for "leads" or referrals, it should be more narrowly drafted to reflect that intent.

Price Disclosure

As you know, the Federal Trade Commission has proposed a trade regulation rule on funeral industry practices, a copy of which is enclosed. It may serve as a guide to you in considering provisions of your proposed legislation, where applicable, and may suggest other areas where state legislation would be appropriate.

In reference to Article 4, FUNERALS, Section 45.45.120 Disclosure of Costs, we suggest consideration of the itemized components of a funeral listed in Section 453.5(e) and (f) of the proposed FTC rule. Subsection (e) requires price information to be itemized for people who inquire about arrangements and prices prior to any agreement, and subsection (f) requires itemization of the invoice after services have been performed by a funeral home. The specific itemization of services and merchandise in the proposed rule will give consumers meaningful price information without burdening them or funeral homes with too many categories.

The purpose of itemization is not only to give useful information to consumers but to remedy several interrelated price abuses that have been identified in the course of investigation by FTC staff. One abuse is the tying of the purchase of the casket to other services. The standard adult funeral is often sold as a "package", and the price is determined by the choice of the casket. The services and merchandise provided are the same from one standard adult funeral to another. Many consumers believe that by purchasing a more elaborate (and expensive) casket, they will receive increased services from the funeral home staff and increased use of the funeral home's facilities for the "package" price. FTC staff has found that this is usually not the case. Our conclusion is that the price of the casket should specifically be itemized separately from other merchandise and services.

Itemized price disclosures will serve to give consumers the prices of the components of a funeral and will be more useful to consumers as a shopping tool if cost disclosures can be received prior to signing a contract. Itemized price

disclosures can be more economical to consumers if services and merchandise not selected can be declined. We would support a provision in the proposed bill which would allow unwanted services and merchandise to be declined for which consumers could then receive a commensurate discount. Such itemized information will allow prospective customers to make price/value considerations for the services and merchandise they choose, if coupled with the right to decline unwanted components.

We believe that the category divisions described in subsection 45.45.120 of proposed bill 509 are too broad to prevent tying arrangements as described above and will not be nearly as helpful to consumers as more complete price disclosures. "Consumers" includes those who want to comparison shop "before need" as well as to understand what they bought "at need."

While it is commendatory for the state of Alaska to pass consumer protection legislation, this office feels that each request for new licensing should be very closely examined to determine whether it, on balance, really serves the public interest in comparison with other less restrictive ways for achieving the same, or substantially the same, purpose. No profession or group has a right to be licensed by the state in order to enhance its dignity or prestige. Since licensing is, as stated, inherently restrictive in nature and tends to reduce competition, an element fundamental to the American marketplace, the hard questions should be asked in each instance when licensing is proposed.

The foregoing expresses the views of the Seattle Regional Office and not necessarily those of the Federal Trade Commission itself.

Sincerely yours,

Rachel Goodisman

Rachel Goodisman
Consumer Protection Specialist

Dennis D. McFeely

Dennis D. McFeely
Attorney

Enclosure

FEDERAL TRADE COMMISSION

[16 CFR Part 453]

FUNERAL INDUSTRY PRACTICES

Trade Regulation Proceeding

Notice of Proceeding, Proposed Trade Regulation Rule, Statement of Reason for Proposed Rule, Invitation to Propose Issues of Fact for Consideration in Public Hearings, and Invitation to Comment on Proposed Rule.

Notice is hereby given that the Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended 15 U.S.C. 41, et seq., the provisions of Part I, Subpart B of the Commission's procedures and rules of practice, 16 CFR 1.7, et seq., and 553 of Subchapter II, Chapter 5, Title 5 of the U.S. Code (Administrative Procedure), has initiated a proceeding for the promulgation of a Trade Regulation Rule concerning Funeral Industry Practices.

Accordingly, the Commission proposes the following Trade Regulation Rule and to amend subchapter D, Trade Regulation Rules, Chapter 1 of 16 CFR by adding a new Part 453 as follows:

PART 453—FUNERAL INDUSTRY PRACTICES

Sec.

453.1 Definitions.
453.2 Exploitative practices.
453.3 Misrepresentations.
453.4 Merchandise and service selection.
453.5 Price disclosures.
453.6 Interference with the market.
453.7 Retention of documents.

AUTHORITY: The provision of this Part 453 are issued under 38 Stat. 717, as amended (15 U.S.C. 41, et seq.).

§ 453.1 Definitions.

For the purpose of this part, the following terms and definitions shall apply:

(a) *Funeral service industry member.* A "funeral service industry member" is any person, partnership or corporation, or any employee or agent thereof, engaged in the business of selling or offering for sale, directly to the public, funeral services and merchandise; of preparing deceased human bodies for burial, cremation or other final disposition; or of conducting or arranging funerals.

(b) *Funeral services.* "Funeral services" consist of services performed incident to: (1) the care and preparation of deceased human bodies for burial, cremation or other final disposition; (2) the arrangement, supervision or conducting of the funeral ceremony and the final disposition of the deceased including, but not limited to, transporting the remains, securing necessary permits, embalming, arranging for death notices and other funeral-related items.

(c) *Funeral merchandise.* "Funeral merchandise" consists of articles and supplies sold or offered for sale, directly to the public, or used by funeral directors incident to: (1) the care and preparation of deceased human bodies for burial, cremation or other final disposition; (2) the arrangement, supervision or conducting of the funeral ceremony.

(d) *Person, partnership or corporation.* The term "person, partnership or corporation" refers to any party, other than a state, over which the Federal Trade Commission has jurisdiction, and may include in appropriate circumstances, but is not limited to, individuals, groups, organizations, trade associations, and professional societies.

(e) *Customer.* A "customer" is any person, association, or other entity who purchases, attempts to purchase or seeks information regarding possible future purchase of funeral services and/or merchandise, without intention of resale.

(f) *Immediate cremation.* An "immediate cremation" is a disposition of human remains which includes reduction of the remains by a heating process and which does not involve formal viewing or a prior funeral ceremony with the body present.

(g) *Outer interment receptacle.* An "outer interment receptacle" is any container or enclosure which is placed in the grave around the casket to protect the casket and/or to prevent the collapse of the grave including, but not limited to, receptacles commonly known as burial vaults, grave boxes or grave liners.

(h) *Casket.* A "casket" is a rigid container which is designed for the encasement and burial of human remains and which is usually constructed of wood or metal, ornamented, and lined with fabric.

(i) *Suitable container.* A "suitable container" is any receptacle or enclosure other than a casket which is of sufficient strength to be used to hold and transport human remains including, but not limited to, cardboard, pressed-wood or composition containers and canvas or opaque polyethylene pouches.

(j) *Crematory.* "Crematory" refers to an establishment which reduces human remains by a heating process.

(k) *Defacing.* "Defacing" consists of deliberate efforts to make merchandise

commerce as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice for any funeral service industry member:

(a) *Display of least expensive caskets.* Whose establishment contains one or more casket selection rooms, to fail to display therein the three least expensive caskets offered for sale for use in adult funeral services, in the same general manner as other caskets are displayed. *Provided,* That if fewer than twelve (12) caskets are displayed, only one of the three least expensive caskets must be displayed.

(b) *Availability of other colored caskets.* To fail to inform customers, by means of a prominently displayed written notice, that displayed caskets can be obtained in other colors, or to fail to provide caskets in other colors to customers who so request, *provided,* That such caskets in other colors can be obtained from regular commercial suppliers upon twelve (12) hours notice.

(c) *Interference with customer's selection of offered items.* (1) to represent, directly or indirectly, orally, visually, or in writing, that any funeral merchandise or service is offered for sale when such is not a bona fide offer to sell said product or service;

(2) To make representations, directly or indirectly, orally, visually, or in writing, purporting to offer any funeral merchandise or service for sale when the purpose of the representation is not to sell the offered merchandise or service but to obtain leads or prospects for the sale of other funeral merchandise and/or services at higher prices;

(3) To discourage the purchase, by customers, of any funeral merchandise or service which is advertised or offered for sale by:

(i) Disparaging the quality, appearance or tastefulness of any such merchandise or service which is advertised or offered for sale;

(ii) Suggesting that such merchandise or service is not readily available or can only be obtained after an appreciable delay, when such is not the case;

(iii) Defacing any merchandise carried for sale; or

(4) To use any policy, sales plan, or method of compensation for salespersons which has the effect, in any manner, or discouraging salespersons from selling, or has the effect of penalizing salespersons for selling, any funeral merchandise or service which is advertised or offered for sale.

(d) *Disparagement of concern for price.* To suggest, directly or by implication, to any customer in any manner that the customer's expressed concern about prices, inexpensive services or merchandise or an expressed desire to save money by the customer is improper, inappropriate or indicative of a lack of respect or affection for the deceased.

§ 453.5 Price disclosures.

In connection with the sale or offering for sale of funeral services and/or merchandise to the public, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice for any funeral service industry member:

(a) *Price information over telephone.* To fail to provide by telephone, upon customer request, accurate information regarding the funeral service industry member's retail prices of funeral products and services, including caskets, vaults, basic services and cremation services, if offered.

(b) *Casket price list.* (1) To fail to furnish to each customer, before discussion about caskets offered for sale or the customer's selection of a casket, a printed or typewritten document which lists, in ascending order of price, the prices of all caskets available for purchase without requiring special ordering by the customer, together with sufficient information about each casket to enable the customer to locate and identify a casket among the others on display. The document shall also bear an effective date for prices listed thereon.

(2) To fail to include, on the printed or written list required by paragraph (b) (1) of this section in clearly legible type, the following heading:

CASKET PRICE LIST FOR (NAME OF FUNERAL HOME)

Listed below, in order, are the prices of the caskets offered by this funeral home together with information to help you locate and identify particular caskets which are displayed. If you are interested in any of the caskets which are included on this list but are not on display, please inquire.

(3) To represent to a customer that a casket on the list is not available, when such is not the case.

(c) *Display of casket prices.* (1) to fail to display prominently in or on the caskets on display the price of such caskets by card, sign or other means.

(2) To fail to display prominently prices on any casket photographs shown to customers and on any caskets shown to customers in display rooms maintained by casket manufacturers or wholesalers.

(d) *Vault disclosure and price list.* (1) to fail to furnish to customers, at the time they are shown or informed as to the availability of outer interment receptacles, before such a customer has made his or her selection, the following printed or typewritten notice:

Some cemeteries require that an outer enclosure be placed around the casket in the grave, while others do not. Where such a requirement exists, it can usually be satisfied by either a burial vault or a grave liner, which is usually less expensive than a burial vault. Outer interment receptacles are often sold by cemeteries as well as by funeral homes. Before selecting any other enclosure you may want to determine any applicable cemetery requirements as well as the offerings of your cemetery and funeral home.

(2) To fail to include on the printed statement required by paragraph (d) (1) of this section, in clearly legible type, the price for each outer interment receptacle available from the funeral home for purchase by the customer, together with a brief description of each enclosure, and an effective date for the prices specified.

(e) *Price list.* (1) To fail to furnish to each customer who inquires in person about the arrangement, purchase, and/or prices of funeral goods or services, prior to any agreement on such arrangement or selection by the customer or to any customer who by telephone or letter requests written price information, a printed or typewritten price list, which the customer may retain, containing the prices (either the retail charge or the price per hour, mile or other unit of computation) for at least each of the following items:

(i) Transfer of remains to funeral home.

(ii) Embalming.

(iii) Use of facilities for viewing.

(iv) Use of facilities for funeral service.

(v) Casket (a notation that a separate casket price list will be provided before any sales presentation for caskets is made).

(vi) Hearse.

(vii) Limousine.

(viii) Services of funeral director and staff.

(ix) Outer interment receptacles (if outer interment receptacles are sold, a notation that a separate outer interment receptacle price list will be provided before any sales presentation for such items is made).

Provided, however, that the list may include total or package prices for any standard adult funeral service package under $_____. The items covered by any such single quoted price shall be specified, but need not be separately priced. However, if a customer wishes to decline one or more items, the price shall be reduced by at least the amount of savings accruing to the funeral home from the declination.

(2) To fail to include, on the printed price list specified in paragraph (e) (1) of this section, directly above the price listings, in clearly legible type, the following:

(i) The name, address, and telephone number of the funeral home;

(ii) An effective date for the prices listed thereon;

(iii) The statement "You are free to select only those items of service and merchandise you desire. You will be charged for only those items you select. In some instances, depending on the circumstances of death and/or the type of service you select, some additional services or merchandise may become necessary. If you are required to pay for certain services or merchandise you have not selected, because they are required by other factors, an explanation shall be provided in writing by the funeral director on the memorandum of funeral services selected which you will receive."

(f) Memorandum of funeral service selected. (1) To fail to furnish to each customer making funeral arrangements, on a written memorandum of the funeral service selected, a list, in at least the following categories, of the services and merchandise selected by the customer together with a price for each item:

Misrepresenting the preservative capabilities of embalming, caskets, or outer interment receptacles.

Failing to display inexpensive caskets.

Displaying inexpensive caskets in a manner which is calculated to discourage their selection by customers.

Pressuring customers into purchasing high-priced merchandise and services.

Disparagement of inexpensive merchandise.

Sales plans or commission schemes which penalize salespersons for selling inexpensive funerals while rewarding them for high-priced sales.

Disparaging a consumer's interest in price considerations.

Refusing to provide price information over the telephone.

Arranging the casket selection room so as to confuse customers and lead them to purchase more expensive caskets.

Displaying caskets without prices.

Misleading customers about the necessity for burial vaults and failing to disclose the availability of less expensive grave liners.

Tying together funeral products and services and refusing to quote separate prices on component items or give discounts for declined items.

Restricting the availability of low-cost funerals, pre-need plans, alternative methods of disposition, and memorial society programs.

Limiting the availability of price information through restrictions on price advertising.

The Commission particularly desires analysis and comment based on specific data and experience.

2. Is it necessary for the Commission to specify a maximum price or formula for the cremation container required by § 453.2(c), to prevent funeral directors from charging excessive prices for such alternative containers?

3. To what extent do existing state and local laws permitting the practices otherwise declared unfair or deceptive by § 453.2(a) and § 453.2(b) of the proposed rule (i.e., embalming without permission, obtaining custody of remains without authorization, refusing to release remains to the deceased's family) protect the public health, safety or welfare or serve other legitimate state interests? Should any of these requirements of state or local law be preempted?

4. Does § 453.3(d) abridge constitutionally protected speech? If so, by what means can the protective purposes of the provision be attained constitutionally?

5. Are the funeral price disclosure requirements of § 453.5 necessitated by inadequate availability to consumers of price information? If so, is this inadequate availability the result of funeral directors' withholding of price information? Would the price disclosures required by § 453.5 help consumers make better-informed purchase decisions?

6. Will mandatory itemization of prices of funeral merchandise and services, as required by § 453.5(e) of the proposed rule, benefit consumers in their selection of funeral merchandise and services? Will the itemized memorandum of funeral merchandise and services selected, as required by § 453.5(f) of the proposed rule, benefit consumers? Please be specific. Are the categories of items which must be enumerated by § 453.5 (e) and (f) useful and appropriate? If not, what changes should be made?

7. Should the offering of low-cost package funerals be encouraged? Would itemization preclude the offering of low-cost funerals? Would exempting the least expensive funerals from the itemization requirements of § 453.5 (e) and (f) prevent such a result? If so, what is a reasonable dollar cut-off point for exempting such funerals from the itemization requirements of § 453.5 (e) and (f)?

8. Are there additional funeral industry practices which should be addressed by this rule?

9. Should the coverage of this rule be expanded to include unfair or deceptive practices used by funeral merchandise manufacturers, cemeteries or other allied industries? What specific practices should be addressed, and in what way are they unfair or deceptive?

10. What will be the impact of the rule on consumers?

11. What costs, economic or otherwise, to funeral homes, especially those which are small businesses, would result from implementation of the proposed rule, and how could such costs be minimized?

12. To what extent do the circumstances of the funeral transaction place the consumer in a more vulnerable position than in other consumer transactions?

INVITATION TO PROPOSE ISSUES OF FACT FOR CONSIDERATION IN PUBLIC HEARINGS

All interested persons are hereby given notice of opportunity to propose any disputed issues of fact, The Commission or its duly authorized presiding official, shall, after reviewing submissions hereunder, identify any such issues in a Notice which will be published in the Federal Register. Such issues shall be considered in accordance with Section 18(c) of the Federal Trade Commission Act as amended by Public Law 93-637, and rules promulgated thereunder. Proposals shall be accepted until October 28, 1975, by the Special Assistant Director for Rulemaking, Federal Trade Commission, Washington, D.C. 20580. A proposal should be identified as a "Proposal Identifying Issues of Fact—Funeral Industry Practices Rule", and furnished, when feasible and not burdensome, in five copies. The times and places of public hearings will be set forth in a later Notice which will be published in the FEDERAL REGISTER.

INVITATION TO COMMENT ON THE PROPOSED RULE

All interested persons are hereby notified that they may also submit to the Special Assistant Director for Rulemaking, Federal Trade Commission, Washington, D.C. 20580, data, views or arguments on any issue of fact, law, or policy which may have some bearing upon the proposed rule. Written comments, other than proposed issues of fact, will be accepted until forty-five days before commencement of public hearings, but at least until October 28, 1975. To assure prompt consideration of a comment, it should be identified as a "Funeral Industry Practices Rule Comment", and furnished, when feasible and not burdensome, in five copies.

Issued: August 20, 1975

By direction of the Commission.

VIRGINIA M. HARDING,
Acting Secretary.

[FR Doc.75-22902 Filed 8-28-75;8:45 am]

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

JOINT COMMERCE COMMITTEE

HEARING AGENDA FOR FEBRUARY 6, 1976

AND

SUMMARY REPORT OF THE INTERIM COMMITTEE

ON MORTUARY SCIENCE

SENATOR ED WILLIS
CHAIRMAN INTERIM COMMITTEE

REPRESENTATIVE BOB BRADLEY
CHAIRMAN JOINT COMMERCE COMMITTEE

AGENDA

JOINT COMMERCE COMMITTEE'S HEARING ON MORTUARY SCIENCE FEBRUARY 6, 1976

8:00 a.m. - Introduction and opening by Representative Bob Bradley

8:10 a.m. - Summary of pending legislation by Bill Terrier

8:30 a.m. - Testimony from the public in the following order:

1. Individuals from out-of-town, as called by the Chair

2. All remaining individuals, as called by the Chair

(All questions of persons giving testimony will come from the Joint Committees.
Any questions from the floor will be in writing and will be submitted to the Joint Committee Chairman for response)

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

January 16, 1976

Senator Genie Chance
Capital Building
Pouch V
Juneau, AK 99801

Re: Final Report of the Interim Committee on Mortuary Science

Dear Senator Chance:

The assignment of the Interim Committee on Mortuary Science was to refine the occupational licensing bill (HB 509) and after consideration if the need for an occupational licensing statute appeared, to prepare a committee substitute. The committee met on September 27, December 2, and December 19. Prior to these meetings a suggested revision was prepared and distributed to all the persons currently licensed to practice embalming in this state and to other interested groups. Notices of the workshop meetings were sent to each of these groups. There was substantial attendance from the profession at each of the first two meetings.

As a result of these, a proposed committee substitute for HB 509 has been prepared and a copy of the bill is attached.

Essentially the bill adopts a dual licensing system; that is, licenses are issued separately for the practice of funeral directing and for the practice of embalming. The administration of the occupational licensing was put in the Department of Commerce. The committee's feelings were that an occupational licensing board would not be a good solution and that the Department of Commerce was a logical alternative.

The proposed substitute also sets substantial educational qualifications as a prerequisite to licensing. Under existing law, no qualifications exist. For this reason a "grandfather" provision was inserted which allows persons who are currently licensed as an embalmer to obtain a license as an embalmer under the new act and a person who has actively practiced as a funeral director to obtain a license as a funeral director under the new act without requiring that the newly imposed qualifications be met.

A substantial area covered in the act was a regulation of pre-need sales. The primary thing this regulation does is require that funds received from pre-need sales be deposited in an account in the name of the purchaser and that both the principal and interest in this account remain the property of the purchaser until time of need.

Since pre-need sales are made by other than professionals, and since an enforcement mechanism is essential, this section was made part of the consumer protection statute.

In addition, the bill contains a disclosure of cost section which requires that in broad catagories the cost of the services be disclosed to the purchaser. The bill was prepared as a proposed committee substitute for Commerce Committee since the bill was currently lodged in Commerce Committee. The committee strongly recommends that both House and Senate Commerce Committees, preferably jointly, hold other hearings on this bill. During the hearing the committee indicated to the interested parties that if such a hearing were held, notice would be given to these parties.

Very truly yours,

Edward C. Willis
Chairman

ECW:bh

Attachment

Original sponsor: H. Beirne by request

IN THE HOUSE BY THE COMMERCE COMMITTEE

CS FOR HOUSE BILL NO. 509

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to funerals and the practice of mortuary science; and providing for an effective date."

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

* Section 1. AS 08 is amended by adding a new chapter to read:

CHAPTER 42. MORTICIANS.

Sec. 08.42.010. AUTHORITY OF DEPARTMENT. The department has jurisdiction over the practice of mortuary science under this chapter. The department may adopt and enforce regulations relating to the practice of mortuary science.

Sec. 08.42.020. LICENSE REQUIRED FOR THE PRACTICE OF MORTUARY SCIENCE. (a) No person may engage in the practice of mortuary science or hold himself out as engaging in the practice unless licensed as an embalmer or funeral director by the department. A person holding a license as a funeral director may not embalm or restore a dead human body, take charge of the remains of a person dead of a communicable disease or prepare for transportation by common carrier a human body dead of a communicable disease.

(b) A person who has actively practiced embalming in the state for at least one year and holds a valid embalmer's license issued in this state before the effective date of this chapter shall be granted a license to practice embalming and may renew the license annually. A person who has actively practiced in the state as a funeral director for a period of at least one year shall be granted a license to practice as a funeral director and may renew his license annually.

Not grandfathered in for Sum. Dec.?

(c) In areas of the state not served by a person licensed to practice mortuary science, the department may issue a permit to an unlicensed person, on an annual basis, for the care and disposition of dead human bodies for compensation. This person must have taken and passed an examination conducted by the department in the subjects set out in sec. 60(a)(9) and (10) of this chapter. This permit otherwise in no way licenses the holder to practice mortuary science.

Sec. 08.42.030. EXAMINATION OF APPLICANTS FOR LICENSE TO PRACTICE MORTUARY SCIENCE. The department is granted authority to examine all applicants for a license to practice mortuary science and to determine whether an applicant possesses the necessary qualifications. The department shall hold an examination at least once each year at the place and time the department may determine.

Sec. 08.42.040. APPLICATION FOR LICENSE TO PRACTICE MORTUARY SCIENCE. The applicant for an examination for a license to practice as an embalmer or as a funeral director shall make application to the department in writing on a form provided by the department.

Sec. 08.42.050. QUALIFICATIONS FOR LICENSE TO PRACTICE MORTUARY SCIENCE. (a) In order to qualify for a license to practice embalming, the applicant shall

(1) be at least 18 years of age;

(2) have not been convicted of a felony involving moral turpitude;

(3) have satisfactorily completed at least two years at an accredited college or university in such subjects as the department may prescribe by regulation as suitable and desirable preparation for the study of mortuary science;

(4) have graduated from an accredited school or college of mortuary science;

? Could unduly restrict entry by "natural law of competition"

(5) have taken and passed the examination for a license to practice embalming conducted by the department;

(6) have completed at least one year of apprenticeship as a resident trainee under an embalmer licensed to practice embalming in this state.

(b) In order to qualify for a license to practice funeral directing the applicant shall:

(1) be at least 18 years of age;

(2) have not been convicted of a felony involving moral turpitude;

(3) have satisfactorily completed at least two years at an accredited college or university in such subjects as the department may prescribe by regulation as suitable and desirable preparation for the study of mortuary science;

(4) have taken and passed the examination for a license to practice funeral directing conducted by the department.

(5) have completed at least one year of apprenticeship as a trainee under a person licensed to practice funeral directing in this state.

Sec. 08.42.060. SCOPE AND CONDUCT OF EXAMINATION FOR A LICENSE TO PRACTICE MORTUARY SCIENCE. (a) The department shall examine applicants for an embalmer's license on the following subjects: (1) theory and practice of embalming, (2) anatomy, (3) pathology, (4) bacteriology, (5) hygiene (including sanitation and public health), (6) chemistry (including toxicology), (7) restorative arts (including plastic surgery and demi-surgery), (8) funeral service arts and sciences, and funeral service administration (including accounting, funeral law, psychology, funeral principles, directing and management), (9) Alaska vital statistics law, (10) the provisions of this chapter, and the regulations pro-

mulgated by the department under this chapter. The department shall examine applicants for a funeral director's license on the subjects included in (8), (9) and (10) of this subsection. The department may use the examination provided by the Conference of Funeral Service Examining Boards of the United States, Inc. where it is applicable to the subjects in this section.

(b) A passing grade in the examination is an average grade of at least 75 per cent with no individual subject grade of less than 70 per cent.

(c) If an applicant receives an average grade of at least 75 per cent, but receives a grade of less than 70 per cent in three or fewer individual subjects, he may be reexamined only in those subjects. He is entitled to reexamination on individual subjects only once. A grade of at least 70 per cent in each of the subjects in which the applicant is reexamined is sufficient to constitute a passing grade.

(d) Except as provided in (b) of this section, an applicant shall be reexamined in all subjects if he reapplies for examination.

Sec. 08.42.070. RECIPROCITY. (a) The department may recognize the license issued to an embalmer or funeral director from another state if the applicant for recognition of his license

(1) furnishes proof satisfactory to the department that he has complied, in the state in which he is licensed, with requirements substantially equal to the requirements of this chapter;

(2) furnishes proof satisfactory to the department that he is over 18 years of age, has not been convicted of a felony involving moral turpitude, that he is licensed in another state, and that he has practiced mortuary science in another state for at least one year prior to the date of application;

(3) takes and passes the examination provided for in (b) of

this section.

(b) The department shall examine each applicant under this section on the following subjects: Alaska vital statistics law, the provisions of this chapter, and the regulations promulgated by the department under this chapter.

Sec. 08.42.080. LICENSE. A license issued under the provisions of this chapter is effective for the calendar year and may be renewed for successive one-year periods.

Sec. 08.42.090. GROUNDS FOR REFUSAL TO ISSUE OR RENEW LICENSES AND SUSPENSION OR REVOCATION OF LICENSES. When the department has reason to believe that an applicant or licensee has been guilty of any of the following acts or omissions, it is the duty of the department to conduct an investigation, and the department may, after proper hearing and notice in accordance with the Administrative Procedure Act (AS 44.-62), refuse to issue, refuse to renew, or may suspend or revoke, a license upon a finding by the department of any of the following acts or omissions:

(1) fraud or misrepresentation in obtaining a license;

(2) misrepresentation or fraud in the practice of mortuary science;

(3) false or misleading advertising;

(4) aiding or abetting an unlicensed person to practice mortuary science;

(5) using a casket or part of a casket which has previously been used as a receptacle for the burial or other final disposition of another dead human body;

(6) refusing to promptly surrender the custody of a dead human body upon the order of the person lawfully entitled to custody;

(7) using profane, indecent or obscene language within the

Why provide for radial extent?

immediate hearing of relatives of a deceased whose body has not yet been interred or otherwise disposed of;

(8) solicitation of a dead human body by the licensee, his agents, servants or employees, whether solicitation occurs after death, or while death is impending but this does not prohibit general advertising;

(9) employment by the licensee of any person for the purpose of calling upon individuals or institutions to influence them to turn over a dead human body to a particular licensee;

(10) the direct or indirect payment or offer of payment for the purpose of securing business;

(11) solicitation or acceptance by a licensee of any payment for recommending or causing a dead human body to be disposed of in a specific crematory, mausoleum or cemetery;

(12) violation of a state law or regulation or municipal ordinance or regulation affecting the disposition of a dead human body, or contracts relating to the disposition of a dead human body;

(13) violation of any of the provisions of this chapter;

(14) conviction of a felony involving moral turpitude.

Sec. 08.42.100. FUNERAL ESTABLISHMENT PERMIT. After the effective date of this chapter, no person may conduct, maintain, manage, or operate a funeral establishment unless a permit for each establishment has been issued by the department and is conspicuously displayed in the funeral establishment. Each permit shall be valid only for one specific location, and separate permits shall be required of two or more firms operating from the same funeral establishment. A permit to operate a funeral establishment shall be issued by the department upon application for the permit on a form provided by the department. All permits shall expire on the 31st day of December of each year and may

be renewed for successive one-year terms. Violation of a provision of sec. 90 of this chapter by a person operating a funeral establishment or with his knowledge or consent by an employee shall be considered sufficient cause for suspension or revocation of the funeral establishment permit.

Sec. 08.42.110. DEFINITIONS. In this chapter

(1) "department" means the Department of Commerce;

(2) "funeral establishment" means every place devoted to or used in the care and preparation for disposition of dead human bodies, or as the office or place for carrying on the profession of mortuary science, or for any combination of these;

(3) "mortuary science" means embalming dead human bodies, taking charge of the remains of those dead of a communicable disease, or preparing dead human bodies for shipment, directing or supervising funerals, preparing dead human bodies for burial by means other than embalming, disposing of dead human bodies, or operating a place for the care or disposition of dead human bodies.

(4) "resident trainee" means a person who has met the qualifications set out in sec. 50(a)(1) - (5) of this chapter and is engaged in learning the practice of embalming under the direction and control of a person properly licensed to practice embalming, or a person who has met the qualifications set out in sec. 50(b)(1) - (4) of this chapter and is engaged in learning the practice of funeral directing under the direction and control of a person properly licensed to practice funeral directing.

Sec. 08.42.120. VIOLATIONS; PENALTIES. A person who violates or aids a person in a violation of this chapter is guilty of a misdemeanor and upon conviction is punishable by imprisonment for not more than one year or by a fine of not more than $5,000.

Sec. 08.42.130. ENFORCEMENT BY ATTORNEY GENERAL. The attorney general may bring an action in the superior court to enjoin a person from violating the provisions of this chapter.

* Sec. 2. AS 45.45 is amended by adding a new section to read:

ARTICLE 4. FUNERALS.

Sec. 45.45.120. DISCLOSURE OF COSTS. Every person performing services or providing merchandise relating to the disposition of a dead human body shall give to the person arranging for the disposition at the time the arrangements are completed and before the time of rendering the service or providing the merchandise a written statement showing, to the extent then reasonably ascertainable,

(1) the price of the service and what is included;

(2) the price of each supplemental item of service or merchandise;

(3) the amount involved for each of the items for which money will be advanced; an item for which money is advanced shall be charged in the same amount as the cost to the person making the advance;

(4) the method of payment.

* Sec. 3. AS 45.50.471 is amended by adding a new paragraph to read:

(22) making or entering into a contract relating to the disposition of a body upon death whereby certain personal property will be furnished or the professional services of a funeral director or embalmer will be furnished, unless the person receiving money under the contract deposits the money, within 15 days of its receipt, in a trust account in a financial institution whose deposits are insured by an instrumentality of the federal government as a separate account in the name of the person benefited with a provision that should the money deposited and any accrued interest not be used for the purposes intended on the death of the person for whose benefit the contract was made all

money in the account shall become part of his estate. Upon demand by the person for whose benefit the contract was made, all money in the trust account, including accrued interest, shall be paid to him and the contract shall be canceled.

* Sec. 4. AS 08.44.010 is repealed.

* Sec. 5. This Act takes effect January 1, 1977.

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SUCCESSFUL FUNERAL SERVICE PRACTICE

Edited by HOWARD C. RAETHER
Executive Secretary
National Funeral Directors Association

PRENTICE-HALL, INC. Englewood Cliffs, N. J.

ABOUT THE EDITOR

Howard C. Raether holds a Ph.B. and J.D. from Marquette University in Milwaukee, Wisconsin. He has been involved in funeral service for thirty years and Executive Secretary of the National Funeral Directors Association since 1948. He was consultant to the United States Government Department of Transportation, National Highway Safety Bureau, and is on a committee serving the Department of Health, Education and Welfare. He was given the highest honor the U.S. Army makes to a civilian – the Distinguished Civilian Service Award. He also is a member of the National Council on Tissue Transplantation and Utilization. He is editor of the NFDA monthly journal, *The Director*, and creator of the *Reference Manual* for funeral directors. In addition his recent writings include, as co-author, *A Compendium of Basic Information on Funeral Establishments and Funeral Establishment Employees and The Fair Labor Standards Act, as Amended* (1968); *Organ and Tissue Transplantation and Body Donation* (1970); and *Personnel Guidance Manual for Funeral Service Practice* (1970).

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THE PREARRANGING AND PREFINANCING OF FUNERALS

Thomas H. Clark
and
Howard C. Raether

A Brief Background

In the chapter "The Law and a Funeral Service Practice" reference is made to changes in the law to permit an individual during his lifetime to take steps to get the kind of funeral he desires and to determine the method and place of final disposition of his body.

There have been developments toward this new concept for many years, but it has been only since the end of World War II that a significant impact of the move was felt. It was not until 1952 that the National Funeral Directors Association felt the situation warranted a policy statement which concluded with the recommendation which has led to laws controlling and regulating prefinanced funeral contracts being enacted in a large majority of the states.

The Sociology of Life and Death

The funerals for most people are selected at the time of death. Unless one knows when, where and under what circumstances he is going to die, it is difficult for him to prearrange his own funeral, either alone or with a member of his family, and feel that it will be as planned.

There are few people who are sure things won't change sufficiently to upset prearranged plans. And in cases when they are changed and are different, problems are often created instead of being solved.

A national study showed that in 1967 less *than 1%* of all funerals conducted, except in the Pacific and Mountain regions, were prearranged. It also revealed that *from 25% to 33%* (depending on the region) of the funerals conducted in 1967 that were prearranged were changed by the survivors. However, *about 50%* of funeral directors said at that time that prearrangements were on the increase.

Why?

There are those who feel, as is pointed out elsewhere herein, that our society is changing from a family culture to a generation culture. Families are being separated by age, by distance, by knowledge and by philosophy.

Sometimes an elder member, especially if living alone, wants to make sure he or she gets the kind of funeral he desires. Often a surviving spouse will make arrangements for the same kind of funeral that was just conducted for the husband or wife.

Sometimes differences in a family are such that segments thereof feel they have to protect themselves against each other as to funeral arrangements and costs.

Sometimes cost is the primary reason for the prearrangement and prefinancing. There are those who want a moderate to expensive service and who want to be sure they get it. Often prearranging is done in an attempt to keep costs down, to indicate to the family or other survivors that they should not go "overboard" in the prearranger's opinion.

Finally, there are those who prearrange and prefinance their own funeral because they want a specific type of service involving a particular church and/or clergyman and/or funeral director and/or any one of many other reasons trivial to some but important to the person doing the prearranging.

Prearrangements are a part of just about every funeral director's files and practice. They must be recognized as an aspect of present-day funeral service, and important facets of the overall picture must be understood.

Psychological Aspects

Some who have studied death, grief and bereavement say that following death there is a therapy in doing things and in having responsibilities. When most of the details of a funeral have been worked out and perhaps paid for by the deceased, this could leave the survivors with little to do in the actual at-need planning and decision making.

Equally important, survivors and the community may want to do some last thing or things in honor and/or respect and/or in recognition of the deceased. There may be the feeling this shouldn't or can't be done when the person has made his own arrangements. Or, there may be some things that the deceased has arranged which might affect the sensibilities of a survivor, or survivors, and bother them for years, but they won't suggest a change lest they "offend" the departed and his memory.

The Promotions of the Fifties

The idea of the prearranged or prefinanced funeral was not first conceived in the early fifties, but it was then that it became the basis for promotions to sell the idea of prearranging and prefinancing funerals.

Some of these promotions were built around package deals covering the funeral

service, funeral merchandise, flowers, burial vault, cemetery lot, opening and closing of the grave, and the grave marker.

Sales crews were trained and often blanketed an area pushing door bells and at times offering an item of merchandise free to get into the door to make their presentation.

In this presentation the alleged high cost of dying, peace of mind, and a special purchase price of the prearranged service and merchandise were usually stressed.

These developments led to two separate actions which although not related complemented each other.

The Association of Better Business Bureaus, now the Council of Better Business Bureaus, came out with three publications on the subject in seven years. In the same period many states enacted laws to control the prearranging and prefinancing of funerals.

The ABBBI publications are:

1. *Facts Every Family Should Know About Funerals and Interments.* Some paragraphs were devoted to package deals therein.
2. *Questions You Should Ask About Cemetery Lot Promotions.* Since many promotions—pre-need and otherwise—were cemetery initiated, this leaflet was prepared.
3. *Facts You Should Know. . .Questions You Should Ask. . .The Prearrangement and Prefinancing of Funerals.*

All three of these publications are kept current and their widespread distribution continues.

Because the last-mentioned booklet is pertinent to this chapter, the following excerpts from it are quoted:

> In recent years a growing number of individuals, firms and groups have sought to stimulate public interest in prearranged, prefinanced funeral plans. Among them have been sales organizations and promoters outside the funeral profession who seek to interpose themselves as third parties in the traditional personal and confidential relationship between the funeral director and the survivors of the deceased. Grievous disappointments and severe financial losses have resulted from some unsound promotional schemes foisted on a credulous public by armies of high-pressure salesmen.
>
> * * *
>
> Sometimes, belief that a funeral has been fully prearranged and paid for can create a false sense of security for survivors.
>
> * * *
>
> The simplest way to prearrange a funeral is to leave written instructions for those who will make the arrangements. If advance payments are involved under a contract which does not permit the individual to alter the prearrangements to meet changing circumstances, the possibilities. . .can lead to serious problems. What assurance do you have that the funds deposited will be intact when the time for their disbursement arrives or that they will be available to you if you want them? Who will receive the interest on your money during the many years which may intervene between the date of deposit and the date of death? Will such interest revert to you? Will you be better off by depositing the money in your own bank where you will get the benefit of all interest earned? You also are free to withdraw your funds in an emergency.
>
> * * *

> Savir ..ims and promises of "bargain" rates are stressed in selling many of these promotional plans. Weigh carefully any representation that a "plan" will give you adequate services for less than you can obtain them from other funeral directors against the fact that the sales commissions and costs must be added to the cost of the funeral under the plan.

The material in these excerpts pinpoints the problem for many of the public.

The State Pre-Need Trust Laws

The questions which the Association of Better Business Bureaus was asking in its booklet on prefinanced funerals were often asked across the country during the fifties and sixties as many states considered legislation to regulate and control the contracts as to such funerals. The chart which is Appendix X gives the names of all the states within the continental limits of the United States. It shows the majority of them with a statute which in some way regulates these contracts. It also gives the basics of each state's statute.

The breakdown of state laws and/or opinions shows, as the Better Business Bureaus point out, that most of these statutes require that all money, or a major share of all monies, paid in advance for funeral merchandise or services, and accruing interest thereon, must be deposited in trust with an approved financial institution until the need for disbursement arises. In most of these states monies paid in advance for burial vaults must also be entrusted and there have been opinions of attorney generals and of state supreme courts upholding this requirement. In some states amounts paid for markers and mausoleum space sold in advance of death must also be placed in trust.

A West Virginia statute was held to be unconstitutional and a new law passed since. The constitutionality of the Arkansas, Idaho, Iowa, Illinois, Kansas, Utah and Texas statutes has been upheld by the supreme courts of those states.

Some promoting prefinanced funerals object to putting in trust or reserve 100% of monies paid in advance for funeral merchandise and services. In the Illinois case one of the suggestions made was that a lesser amount be deposited. The supreme court of the state in its decision points out that the plaintiff cemetery entered the "prearrangement business by choice" and that its procedures invite "regulation of a stringent nature." The matter was appealed to the Supreme Court of the United States which refused to consider the case.

Some Present-day Thoughts About Prearranged and Prefinanced Funerals

In the previously referred to Illinois decision the supreme court of that state said:

> In the long interval between full receipt of the purchase price and contract performance the opportunities for fraud are great and risk of insolvency, with consequent inability to perform, apparent.

It is doubtful whether anyone has or will doubt the validity of this statement. And in many areas there has been a slackening of pre-need promotion activity. The economics of the situation has much to do with this for reasons funeral directors know.

The Plan with the Special Price

ABBBI queries a $795 funeral being sold in advance for $595. In its brochure an arrangement is cited "between one sales organization and 'participating' funeral homes (in which) the latter are required to represent that a designated funeral, available to customers of the 'plan' at the 'reduced price' of $595, is 'regularly' priced at $795. The actual price to the company selling the plan is only $420."

The BBB asks, "Do you believe that a funeral home can afford to sell services and merchandise honestly priced at $795 for little more than half that amount and still make a profit?"

Supposing that there was no sales organization, could a funeral home with a plan of providing a $795 service for $595 come out ahead with that amount?

If this is in a state where the interest on the monies paid in advance cannot accrue to the benefit of the funeral firm, the amount paid will not increase. Even in those states where the interest can accrue, as earned, to the benefit of the funeral firm, unless the entire amount, or a sizable portion of it, is held for a long period of time, the increment is not large enough to close the gap between the "before-need" and "at-need" figures if both are realistic.

Another factor of importance is the annual increased cost of providing the service. This is especially true if the components of the funeral and a particular casket are spelled out. Few things have gone down in price or remained stable in a number of years. Therefore every cost increase decreases the actual amount available for the funeral.

Finally, if the pre-need contract was solicited by a salesman, it is estimated that 15 to 30% of the total contract price will be used to absorb sales and administration costs.

Income for Federal Tax Purposes

When a funeral is prefinanced, if the firm to whom that money is paid has constructive, permissive or actual use of the money, the money is taxable as income by the federal government for the year in which the money was received. This is true whether the amount is a partial payment or the entire prepaid price of the service.

What to Do

This chapter shows that many states have enacted laws controlling and/or regulating the contracts made in advance of need for funeral services and/or merchandise. This coupled with significant variations in the pre-need laws and the divergent opinions which exist among funeral directors warrants the following recommendations:

1. Pre-need contracts and their solication *are* fraught with the danger of fraud and funeral directors should avoid any contract or plan which could harm their clientele or their service or place in the community.

2. Those who wish to prearrange their own funeral or one for someone for whom they have responsibility should be able to do so.
3. When a funeral is prearranged and monies are paid in advance of need for funeral services and/or merchandise including burial vaults, *all* such monies should be deposited in a trust fund with the person or persons prearranging having the control thereof to be entitled to the earnings therefrom. Furthermore such prearranger shall have the right to terminate the contract at any time without forfeiture of any of the funds which have been paid or earnings accrued.
4. Where a contract is entered into it should be in accordance with the laws of the state in which the prearrangement is made. Some state funeral directors associations have prepared contract forms. If there is no pre-need law and/or if no form is available—the suggested wording for one is at the conclusion of this chapter. In all such contracts the funeral director should bind himself only to the kind of funeral and merchandise which will be available at the time of need for the face amount of the contract.
5. Funeral directors should carefully consider the potential negative effects and cost of allowing a third party to step between themselves and their firm and the family through the representations of a third party soliciting a pre-need program or plan which will be serviced by the funeral home when the person for whom the service was prearranged dies.
6. No funeral business should be purchased which has the liability of providing funerals which have been prefinanced in whole or in part until the purchaser of the business is sure the monies paid in advance are on hand for the funerals which will have to be provided.

It is not the intent of the writers of this chapter to discourage individuals and families from discussing funerals and perhaps making tentative plans for a funeral or funerals. This is encouraged especially when there is a family or close friends and they share in the discussion. Death is not as commonplace as it once was. Millions of people in the country today have never experienced a death and funeral of someone close to them. They don't know what is involved and they should.

There is a big difference between tentative arrangements considering survivors and formal agreements which might disregard and adversely affect the sensibilities of those who will mourn.

Where there is no family or its members are disinterested or feel specific prearrangement is good, a formal agreement in line with the following contract suggestion will not only be proper but may also be helpful.

* * *

THIS AGREEMENT made and entered into this ____ day of _____ 19____, by and between _____, party of the first part, hereinafter sometimes referred to as "Funeral Director," and _____, party of the second part, sometimes hereinafter referred to as "Buyer."

WITNESSETH:

WHEREAS, party of the second part desires and hereby requests to enter into a contract to pro-

vide for payment for funeral merchandise and/or services in advance of death, which merchandise and /or services are to be delivered and performed subsequent to the death of _____ _____, herinafter referred to as Beneficiary as follows:

Professional services and casket

_____

_____

_____

NOW, THEREFORE, in consideration of the mutual promises, it is hereby agreed as follows:

1. Funeral Director will supply to Beneficiary out of the funds deposited by Buyer the services and/or merchandise as set forth above for the sum of $_____, payable as follows:

_____

_____

_____

2. Said funds as aforesaid shall be placed with _____ hereinafter sometimes referred to as "Trustee" within ten days after receipt thereof. In the event, upon the death of Beneficiary, said funds are inadequate to provide for the services above described, then the funds shall be used by the Funeral Director to provide professional services and/or merchandise of a type as nearly similar as may be purchased with said funds at the time of Beneficiary's death.

3. Upon the death of Beneficiary, the said funds shall be released by the Trustee forthwith to the Funeral Director upon receipt of a certified copy of certificate of death or other evidence of death satisfactory to said Trustee and where required by State Law, an affidavit by the Funeral Director that the funeral services and/or merchandise which has been contracted for have been so provided and that the cost was not less than the amount on deposit. Any amount on deposit not required to pay for funeral services and/or funeral merchandise shall be returned on request to the Buyer if living, or if not living to the estate of the beneficiary.

4. Said funds shall remain on deposit with the Trustee and shall remain intact as a fund until the death of the Beneficiary, or until withdrawal by Buyer as hereinafter provided; and said funds may be withdrawn only for the full amount thereof and not in part, and said withdrawals must comply with the rules and regulations of said Trustee; provided, however, that the Buyer may, at any time upon complying with the rules and regulations of the Trustee, withdraw the funds deposited to date with the Trustee pursuant to this contract. In the event of withdrawal the Buyer shall notify the Funeral Director within twenty-four hours prior to such withdrawal, and in the event the withdrawal is completed, the Funeral Director shall be relieved from any of the obligations contained in this agreement.

5. It is mutually agreed that the said Trustee is only the repository of said funds and is not liable for the fulfillment of the contract by the Funeral Director, and upon payment over to said Funeral Director of the said funds, or repayment to Buyer, the Trustee's liability shall terminate.

6. Interest earnings which may accrue on said funeral fund shall be added to and become part of said fund.

7. Upon the death of Buyer, in the event the said funds shall exceed the amount required to provide services set forth above, any surplus shall be paid over to Beneficiary's estate (or) to _____, by the Funeral Director.

8. This Agreement shall be binding upon the heirs, administrators, executors and assigns of the parties hereto.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first above written.

2

THE WHOLE-MAN TOTAL-FUNERAL CONCEPT

Howard C. Raether
and
Robert C. Slater

Example: John J. Jones dies of a disfiguring malignancy. He is survived by his widow, one son, two daughters, one daughter-in-law, one son-in-law and two grandchildren. At the time of his death his married daughter is less than a month from having her first child. His unmarried daughter is engaged. Her fiance is in the army on duty within the country.

During the first contact with the son who is handling arrangements tentatively awaiting final plans for the funeral, four areas of concern of the family become apparent. They are:

1. Will restoration of the father's face be such that viewing will be possible?
2. The pregnant daughter was her father's favorite. How will she hold up? To what extent should she participate in the arrangements and during the various periods of the funeral.
3. What about the son-in-law to be? Might he get an emergency leave to be at the funeral? He could be a real comfort to his future bride.
4. The two grandchildren are ages 7 years and 10 months. The boy, 7, the first grandchild of the deceased, loved his "Bompa" very much. Should he be allowed at the funeral home? Should he see the casketed body of his grandfather? Should he go to the service?

This hypothetical situation could well be a real one. It could be more complex or consist of only one or two "concern areas." It is spelled out not to present some problems and the solutions to them. Rather it is outlined to introduce what happens

daily in funeral homes and two ways of considering what the funeral home owner(s) and other licensees should know and do in this situation.

Two Schools of Thought

There are two basic schools of thought regarding the serving of families and the role of funeral service licensees and the education necessary for them to fulfill their tasks. One is known as the whole-man-total-funeral concept. The other is the owner-manager-technician concept. A statement on how two funeral homes, one using the whole-man concept and the other the owner-manager-technician concept, might serve this family is essential to any present-day appraisal of funeral service practices.

Before spelling out this appraisal it should be made clear that this is not a discussion of the philosophies of funeral homes with a sizable number of funerals annually and those with a small volume. There are large firms with the whole-man-total-funeral concept. There are small firms with the owner-manager-technician philosophy, firms which use service companies to do some of the things involving personal contact even when the funeral-director-owner or an associate is available.

The Whole-Man–Total-Funeral Concept

In a funeral home where the whole-man-total-funeral concept prevails, after the receipt of the call on the death of John Jones the funeral-director-owner and/or manager or one of his staff would have the responsibility to follow through with the family. This licensee would provide the person-to-person professional service outlined in another chapter. He would tell of the advantages of viewing the deceased and if he did not do the restorative work to make the viewing possible, he would check on it periodically.

The person "waiting on" this family would alert the others on the staff to the condition of the pregnant daughter. Throughout the arrangements and period of the funeral he would watch for signs that would indicate the mother-to-be ought to be momentarily removed from the central scene. If need be, he might suggest calling her doctor.

This funeral director also could suggest contacting the Red Cross, or he might do it himself if the fiance asks for emergency leave and can't get it. He might also talk to the clergyman to see if he feels it important enough to call the chaplain for the fiance's army unit about the leave.

He undoubtedly would counsel with the family about the grandson's viewing the body and his part in the funeral, if any. There again he would talk to the clergyman and if the youngster knows the cleric well, he might be one of the two or three with the boy as he goes to see his "Bompa."

The whole-man-total-funeral concept makes one person licensed to practice funeral service responsible to a family to try to meet all their needs in relation to the total funeral. While there undoubtedly will be some delegation of duty and authority, the person "waiting on" the family is responsible for the funeral of the one they loved. And if the funeral home owner is not the one, he will at some time or times check with the licensee responsible and the family to see how things are coming.

The Owner-Manager-Technician Concept

When the original death call is received by a funeral home administered under the owner-manager-technician concept there are variations in what might happen depending on the size and practices of the firm. But unlike the previously described concept, the same licensee will not be involved in all facets of the funeral. Rather there will be one or more persons with specialized knowledges or skills who will perform their tasks and having done so their responsibility for that "service" ends. For instance, at the time of the removal a family may ask about several matters pertaining to funeral arrangements which the specialized technician may not be able to answer, necessitating a referral to another staff person.

In some funeral homes with this concept there are persons who do the arranging, there are others who are with the family for the casket selection, there are those who only embalm, and there might be some who just direct the actual funeral service.

Most times these individual functionaries report to a central office or person. Sometimes that person is not a funeral service licensee. What complicates the situation is that anyone of these individuals will find he must act alone sometimes without support from anyone else.

Following the death of John Jones the areas of concern might become apparent to those associated with the funeral home with the owner-manager-technician concept. But those who argue for the whole-man concept—as the authors of this chapter do—say that the chances are less that they will for two reasons. First, the departmentalized or specialized services of the funeral home bring no single staff member in constant communication with the family so as to allow them a total picture of what is happening and what is needed. Second, because the family sees and makes various arrangements with two or three people, they are less likely to get sufficiently close to one of them to make some requests they might have, or to "unload" some of their feelings.

Rabbi Dr. Earl A. Grollman, who is a well-known pastoral psychologist, paraphrased an article for clergymen in the following manner: "The word *cure* has its root in a word that originally meant *care*. The funeral director is someone who cares about, who takes care, and who takes care of. He is called upon to cure, to encourage as well as to console, to overcome soul-wounds. His is part of a meaningful care-taking profession."

This definition fits most funeral service licensees. But its ultimate more often than not is found in those practicing with the whole-man—total-funeral concept.

Licensing—Education—Recruitment

It is estimated that approximately 75% of all persons licensed in funeral service hold a funeral director's *and* an embalmer's license, or a combination of both. There are seven states which do not license funeral directors as such. There are eleven states where there is a single license law covering both funeral directors and embalmers, or where the requirements for funeral directors include embalmer prerequisites.

The whole-man—total-funeral idea is best served when the licensee is educated *and* licensed to do all that is done or might have to be done in a funeral service practice.

The reasoning for this is valid when looking outside of funeral service and when

realistically confronting the facts within funeral service.

It is admitted that there are men and women who prefer the technical aspects of the profession. They like to embalm and do restorative work. It is also true that some licensees seldom prepare a remains because their personal contact and administrative duties keep them fully occupied.

There are physicians who specialize in surgery. There are lawyers who do nothing but tax work. There are dentists whose practice is limited to extracting teeth and pharmacists who are research chemists. But in each of these fields the *general* education and license is that which must first be obtained and the specialization follows.

In funeral service the reasons are as logical and compelling.

It is helpful in the serving of people for all licensees to be fully qualified. As an example, the owner or manager should have the basic knowledge if not the experience to understand an embalming problem and perhaps help solve it, or at least to be able to relate it to someone.

Likewise a licensee specializing in technical functions should be able to fill in in other capacities in the absence of those who do this normally. He should also be able to serve those who may want him as their funeral functionary.

The following chapter deals with personnel practices. But it is pertinent at this point to state that for the funeral to continue with care taking personalized service given by licensed personnel there must continue to be an influx of such personnel to replace those who die, retire, or leave the field.

As long ago as 1957 the Joint Commission on Mortuary Education said in its report that the concept of the person licensed to practice funeral service must reintegrate the embalming with the funeral directing function. Also the role of the licensee must be expanded to include services which have a therapeutic and mental health value performed for the living.

The Commission was formed in April 1956 "to examine the bundle of tasks that have been socially and legally assigned as the occupational province of present-day American funeral service personnel with a view to determining the educational experiences, both preparatory and in-service, needed for their efficient and satisfactory performance."

The conclusion previously stated was predicated on the finding that embalmers were faced with an occupational dilemma—with ambiguous status. The reasons for this were summarized in the following manner:

1. Embalming in the minds of funeral service personnel is associated with the "back room" of the funeral home.
2. Dealing with the clientele "out front" is valued by funeral service staffs.
3. While not all who are primarily embalmers are discontented, those who are are critical in a manner symptomatic of frustrated career aspirations.
4. Funeral directing only in the dual license sense (funeral director and embalmer) means management, personal contacts and funeral direction. Paradoxically in many states this requires the least formal education and training.
5. Embalmers and other technicians have had little success in organizing associations other than unions.

There is one other point that the Commission made more than a decade ago which might be viewed as prophetic. In its analysis the Commission used the phrases "house of management" and "house of labor." It is our opinion that the whole-man–total-funeral concept with the single license will discourage a division of personnel whereas the owner-manager-technician concept will encourage it to the point where there may be a separation of "management" and "labor" in a funeral home.

A funeral home owner must face up to the following facts:

"Back room" men can be obtained, but often they must be paid as much or more salary as are qualified personnel. Also, these men *do* represent the funeral home and the owner(s) for better or worse. However, it is rare that a man who will make a worthwhile staff member can be recruited to be a "back room" man, a "second class citizen." There are times when the owner is away and one or more staff members fill in for him. Or he may be busy. The funeral is just as important to the people served by these staff members as it is to those served by the owner or manager. Irreparable harm can be done by a mistake or mistakes. There is no doing it over. The greater the education of a survivor or survivors the greater the possibility of his expecting good service by an equally or better educated person associated with the funeral home. The more closely a man fits the requirements of the whole-man concept the greater his chances are of meeting the challenge and needs of those of the "new" generation.

Paul R. Keenan, now of the University of Missouri, put it well when he said in his "Education for Tomorrow" :

> If the funeral service practitioner of today and tomorrow is to be successful in his contacts with other members of his community, he will be expected to meet them on an equivalent academic basis. If he does not, not only will he be at some disadvantage, but many opportunities both personal and professional which he might otherwise enjoy will not be available to him.
>
> We must also be aware that the basic fund of knowledge is increasing in this day and age at a rate in which it is doubled every ten years. This has resulted in many changes in sociological and professional practices. In many fields it has resulted in computer storage of information–in others it has established specialties, and sub-specialties within professions and occupational groups. Employment opportunities unknown ten years ago are commonplace today, and this has contributed much to the complex situation in which today's citizen must function and which he hopes to understand.
>
> There is no doubt, unless some unforseen circumstance arises, that knowledge will continue to become available at a constantly accelerating rate, accompanied by a comparable complexity of life; and the person who finds himself unprepared for it will experience some difficulty in keeping abreast of new developments in everyday living. If this is true of citizens attempting to find a place in life which is satisfying to them, it will also be true of the professional who will find the many faces of society constantly changing, and who will have to cope with these changes if he is to survive. It should be remembered that he must operate both as a member of his society and also as a professional person to satisfy special needs of the community in which he elects to function.
>
> Funeral service has been comfortable in the knowledge that it has developed according to specific customs based on the needs of the people, but no one can adequately predict the lines on which it will develop further. It does not, however, require a soothsayer to

predict that funeral service will be subjected to changes because the needs and demands of the public are changing, and will continue to change.

In the almost 100 years of licensing the funeral functionary, there have been three basic steps of progression to meet the *needs and demands of change,* with a fourth now developing fast:

1. The embalmer–public-health concept.
2. The advent of the funeral director license to embrace more than embalming and to place responsibility for actions beyond preparation of the body.
3. The dual license law in most states with most licensees being both funeral directors and embalmers, or holding a combination license.
4. The single license to practice funeral service predicated on the whole-man–total-funeral concept to encompass services essential to the place of the licensee as a "care-taker," or "care-giver," or "gate-keeper" in America in the last third of the twentieth century.

APPENDIX X

Basic Data on State Pre-Need Trust Laws

STATE	PRE-NEED STATUTE	STATE CONTROL AGENCY	PERMIT REQUIRED	AMOUNT OF PAYMENTS PUT IN TRUST	AMOUNT OF INCOME PART OF TRUST	AMOUNT BUYER CAN WITHDRAW
1. ALABAMA	no law					
2. ALASKA	no law					
3. ARIZONA	yes	yes	no	100%	100%	100%
4. ARKANSAS	yes	yes	yes	100%	100%	none
5. CALIFORNIA	Funeral directors only	yes	no	100%	Used to pay expenses and forfeitures	100% of payments
6. COLORADO	yes	yes	yes	85%	Up to 15% of contract	Amount of payments & interest accrued.
7. CONNECTICUT	Insurance law governs	yes	yes			
8. DELAWARE	Participation in such activities considered grounds for suspension of revocation of license.					
9. DISTRICT OF COLUMBIA	no law					
10. FLORIDA	yes	yes	yes (only licensees can arrange)	100%	100%	100%
11. GEORGIA	yes	yes	yes	100%	100%	100%
12. HAWAII	no law					
13. IDAHO	yes	no	no	100%	100%	100% less cost of operating trust
14. ILLINOIS	yes	yes	yes	95%	95%	Amount in trust account less 25% or $35.00 whichever is greater.
15. INDIANA	yes	yes	yes	100% less trustee's expense	100% less trustee's expense	Amount in trust account less 10% or $35.00 whichever is greater
16. IOWA	yes	no	no	80%	100%	Amount in trust account on mutual consent

STATE	PRE-NEED STATUTE	STATE CONTROL AGENCY	PERMIT REQUIRED	AMOUNT OF PAYMENTS PUT IN TRUST	AMOUNT OF INCOME PART OF TRUST	AMOUNT BUYER CAN WITHDRAW
17. KANSAS	yes	no	no	100%	100%	100%
18. KENTUCKY	yes	yes	yes	100%	100%	100%
19. LOUISIANA	Participation in such activities possible grounds for revocation of license.					
20. MAINE	yes	no	no	100%	100%	100%
21. MARYLAND	yes	no	Licensed funeral director and embalmer only	100%	100%	100%
22. MASSACHUSETTS	no law					
23. MICHIGAN	yes	no	no	100%	100%	100%
24. MINNESOTA	yes	no	no	100%	100%	100%
25. MISSISSIPPI	Pre-need contracts limited severely and controlled by Insurance Commissioner					
26. MISSOURI	yes	yes	no	80%	none	73%
27. MONTANA	yes	yes	no	100%	100%	100% on mutual consent
28. NEBRASKA	yes	yes	no	100%	100%	100%
29. NEVADA	Life insurance law governs					
30. NEW HAMPSHIRE	no law	Burial associations prohibited				
31. NEW JERSEY	yes	no	no	100%	100%	100%
32. NEW MEXICO	Life insurance law governs					
33. NEW YORK	yes	yes	no	100%	100%	100%
34. NORTH CAROLINA	yes	yes	yes	100%	100%	100%

STATE	PRE-NEED STATUTE	STATE CONTROL AGENCY	PERMIT REQUIRED	AMOUNT OF PAYMENTS PUT IN TRUST	AMOUNT OF INCOME PART OF TRUST	AMOUNT BUYER CAN WITHDRAW
35. NORTH DAKOTA	yes	yes	Can be engaged in only by operators of licensed funeral establishments	100%	100%	100%
36. OHIO	yes	no	no	100%	100%	100%
37. OKLAHOMA	yes	yes	yes	90%	100%	100% of amount paid into trust fund
38. OREGON	yes	no	no	100%	100%	100%
39. PENNSYLVANIA	yes	yes	no	last 70%	100% on deposit	last 70% of payments.
40. RHODE ISLAND	no law – Pre-need arrangements may be grounds for suspension or revocation of license					
41. SOUTH CAROLINA	no law – funeral directors may not collaborate with life insurance companies in this area					
42. SOUTH DAKOTA	yes	no	no	100%	100%	100%
43. TENNESSEE	yes	yes	no	100%	100%	100%
44. TEXAS	yes	yes	yes	90%	100% less trust expenses	All of payments held in trust – no interest
45. UTAH	yes	yes	yes	at least 75%	100% of trust	90% of the amount placed in trust
46. VERMONT	no law					
47. VIRGINIA	yes	no	no	100%	100%	Mutual consent
48. WASHINGTON	Insurance law governs					
49. WEST VIRGINIA	yes	yes	no	95%	95%	Amount in trust less 25% or $35.00 whichever is greater

STATE	PRE-NEED STATUTE	STATE CONTROL AGENCY .	PERMIT REQUIRED	AMOUNT OF PAYMENTS PUT IN TRUST	AMOUNT OF INCOME PART OF TRUST	AMOUNT BUYER CAN WITHDRAW
50. WISCONSIN	yes	no	no	100%	100%	100%
51. WYOMING	Commissioner of Insurance sets out rules and regulations					

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

THE LEGISLATURE OF THE STATE OF ALASKA
FISCAL NOTE
Second Session - Ninth Legislature

I. REQUEST
Bill No. House Bill 509 (proposed CS)
Title: An Act relating to funerals and the practice of mortuary science
Requested by: House Commerce Committee Date:
Return Date Requested:
Agency: Commerce Program: Licensing Professions

II. FISCAL DETAIL
Budget Request Unit(s) Affected: Regulating and Licensing of Professions

A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100	PERSONAL SERVICES						
200	TRAVEL		6.0				
300	CONTRACTUAL		5.0				
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		11.0	.0	.0	.0	.0

B. FUNDING: (Thousands of dollars)

GENERAL FUND		11.0	.0	.0	.0	.0
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	/	0 /	0 /	0 /	0 /	0 /
MAN MONTHS (P./T.)	/	0 /	0 /	0 /	0 /	0 /

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This bill does not create a board, but will place the responsibility for setting standards, developing examinations and examining and licensing applicants within the Department of Commerce and Economic Development. Total licensees are estimated to be from 75 to 100 persons and places of business initially. The Department will need contractual assistance to formulate regulations and funding to hold hearings the first year. We are assuming an effective date of July 1, 1976 and that investigations and enforcement are the responsible of the Attorney General.

IV. ATTACHMENTS

V. DATE: February 2, 1976 PREPARED BY: Sharon Andrew, Director

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

H/S 50

JOINT COMMERCE COMMITTEE

HEARING AGENDA FOR FEBRUARY 6, 1976

AND

SUMMARY REPORT OF THE INTERIM COMMITTEE

ON MORTUARY SCIENCE

SENATOR ED WILLIS
CHAIRMAN INTERIM COMMITTEE

REPRESENTATIVE BOB BRADLEY
CHAIRMAN JOINT COMMERCE COMMITTEE

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

1976 FEB 5 PM 8 34

02095 POM ANCHORAGE ALASKA 15 02-05 0340P AST

PMS REP BOB BRADLEY

1261

JUN

AS I READ HB509 EDUCATIONAL STANDARDS TOO HIGH

AND WOULD INCREASE CONSUMER COSTS. URGE REVISION

RICHARD L JOHNSON PO BOX 11 99510

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

02865 POM ANCHORAGE AK 15 02-04 945A AST

1976 FEB 4 PM 5 55

PMS REPRESENTATIVE BOB BRADLEY STATE HOUSE

POUCH V 2167

JUN

URGE DELAY OF CSHG 509 BECAUSE IT NEEDS FURTHER STUDY

MARIA FOX BOX 600 LAKERIDGE DRIVE EAGLE RIVER 99577

Prepared upon
her advice

Hearing should
Studies further agency
further comments
Written comments
Ed Willis Chaired
upon district

TELEGRAM

CA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

;

1976 FEB 5 PM 7 59

12062 POM FAIRBANKS ALASKA 02-05 445P AST

PMS REP BOB BRADLEY

JUN 251

UNLESS CSHB509 CONTAINS DUAL LICENSING I WOULD

URGE ITS DEFEAT

JIM HEIBER 415 ILLINOIS FAIR

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

1976 FEB 5 PM 8 02

CJ

12060 POM FAIRBANKS ALASKA 02-05 445P AST

PMS REP BOB BRADLEY

JUN 250

OPPOSE CSHB509 BECAUSE IT IS TOO RESTRICTIVE

RAMONA VAN DE DEEGAETE

738 WEST 72 ANCH

TELEGRAM

ICA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

;

1976 FEB 5 PM 7 59

12061 POM FAIRBANKS ALASKA 02-05 445P AST

PMS REP BOB BRADLEY

JUN 249

REQUEST FURTHER CONSIDERATION OF ALL ASPECTS CSHB509

BEFORE PASSAGE URGE CAUTION

JOHN CAVEN 4024 EVERGREEN FAIR

#

TELEGRAM

RCA ALASKA COMMUNICATIONS INC

PHONE: 586-6440

JUNEAU, ALASKA 99801

;

12064 FAIRBANKS ALASKA POM 02-05 445P AST

PMS REP BOB BRADLEY

JUN 252

DOES CSHB509 REALLY CONSIDER THE CONSUMER URGE CAUTION

BEFORE PASSAGE

WALLACE BELL 2100 STANFORD DR ANCH

TELEGRAM

ACA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

1976 FEB 5 PM 8 05

CJ

12067 POM FAIRBANKS ALASKA 02-05 445P AST

PMS REP BOB BRADLEY

2.55

JUN

AS I READ CSHB509 EDUCATIONAL STANDARDS TOO HIGH FOR

ALASKA

RITA IHITACAGA

509 MARINE VIEW JUNEAU

TELEGRAM

ACA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

1976 FEB 5 PM 8 05

CJ

12066 POM FAIRBANKS ALASKA 02-05 445P AST

PMS REP BOB BRADLEY

254

JUN

URGE DEFEAT CSHB509 BECAUSE IT MAY BE TOO COSTLY FOR THE

CONSUMER

PAUL WAGNER SR 525 4TH FAIR

TELEGRAM

ACA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

1976 FEB 5 PM 8 04

CJ

12865 POM FAIRBANKS ALASKA 02-05 445P AST

PMS REP BOB BRADLEY

253

JUN

COST OF FUNERALS ALREADY TOO HIGH CSHB509 WOULD DRIVE THEM

HIGHER

ROBERT W BIGGS

738 WEST 72 ANCH

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

1976 FEB 5 PM 8 06

CJ

12068 POM FAIRBANKS ALASKA 02-05 445P AST

PMS REP BOB BRADLEY

256

JUN

UNLESS CSHB509 CONTAINS DUAL LICENSING I WOULD URGE

ITS DEFEAT

IRENE S LOWERY RR5 BOX 5199 NBR 32 JUNEAU

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

;

1976 FEB 5 PM 8 35

02096 POM ANCHORAGE ALASKA 15 02-05 0340P AST

PMS REP BOB BRADLEY

262

JUN

URGE FURTHER STUDY TO INCORPORATE APPRENTICESHIP

AND TRAINING AGENCY REQUIRMENTS IN HB509

RANDOLPH WEST 1542 G STREET 99501

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

02864 POM ANCHORAGE AK 15 02-04 945A AST 1976 FEB 4 PM 5 55

PMS REPRESENTATIVE BOB BRADLEY STATE HOUSE

POUCH V 2165

JUN

UNLESS CSHB509 CONTAINS DUAL LICENSING

I WOULD URGE ITS DEFEAT

KEN VOLTZ

ANCHORAGE ALASKA

TELEGRAM

ACA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

#

02063 POM ANCHORAGE AK 15 02-04 945A AST 1976 FEB 4 PM 5 55

PMS REPRESENTATIVE BOB BRADLEY STATE HOUSE

POUCH V 0164

JUN

CSHB509 NEEDS MUCH REVISION AND SHOULD CONTAIN DUAL

LICENSING

DENNIS WARD

ANCHORAGE AK

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

1976 FEB 4 PM 5 56

#

02066 POM ANCHORAGE AK 15 02-04 945A AST

PMS REPRESENTATIVE BOB BRADLEY STATE HOUSE

POUCH V

JUN

URGE DELAY IN CSHB509 PENDING FURTHER STUDY WITH

RESPECT TO RECIPROCITY

RICKY LOWE 3404 WOODLAND PARK DRIVE

ANCHORAGE ALASKA

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

02068 POM ANCHORAGE AK 15 02-04 945A AST 1976 FEB 4 PM 6 00

PMS REPRESENTATIVE BOB BRADLEY STATE HOUSE

POUCH V 2171

JUN

AS I READ CSHB509 EDUCATIONAL STANDARDS TOO HIGH FOR ALASKA

CHRIS MILLAR SRA BOX 40510

ANCHORAGE ALASKA

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

1976 FEB 4 PM 6 01

02069 POM ANCHORAGE AK 15 02-04 945A AST

PMS REPRESENTATIVE BOB BRADLEY STATE HOUSE

POUCH V

JUN

PROPOSED FTC FUNERAL RULES NOW PENDING MAY NEGATE

CSHB509

FRED KEHL

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

1976 FEB 4 PM 6 03

02872 POM ANCHORAGE AK 15 02-04 945A AST

PMS REPRESENTATIVE BOB BRADLEY STATE HOUSE

POUCH V 375

JUN

DOES CHSB 509 REALLY CONSIDER THE CONSUMER URGE

CAUTION BEFORE PASSAGE

ERNIE HAYWOOD 835D STREET ANCHORAGE 99501

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC. 1976 FEB 4 PM 6 45
PHONE: 586-6440
JUNEAU, ALASKA 99801

02084 POM ANCHORAGE ALASKA 15 02-04 340P AST

PMS REP BOB BRADLEY
480

JUN

CSHB264 WOULD VIRTUALLY PREVENT ME FROM PURSUING

MY VOCATION OF THE PAST FIVE YEARS

LARRY WOOTEN 4131 LAUREL ANCHORAGE

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

1976 FEB 5 AM 12 11

02185 POM ANCHORAGE ALASKA 15 02-04 0922P AST

PMS SEN BOB BRADLEY 0192

JUN

OPPOSE CSHB509 BECAUSE OF RESTRICTIVENESS

GORDON W CATCHING BOX 6187 ANNEX

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

1976 FEB 5 PM 8 37

02098 POM ANCHORAGE ALASKA 15 02-05 0340P AST

PMS REP BOB BRADLEY

0264

JUN

HOUSE BILL 509 LACKS COMPREHENSIVE STRUCTURE

AND IS VAGUE NEEDS EXTENSIVE WORK THANK YOU

LA ROGERS 3637 KNIK AVENUE 99503

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

1976 FEB 5 PM 8 07

12069 POM FAIRBANKS ALASKA 02-05 445P AST

PMS REP BOB BRADLEY

JUN [redacted]257

URGE REJECTION OF CSHB509 IN PRESENT FORM AS IT WOULD

RESTRICT PREPLANNING FUNERAL SERVICES

ROBERT FARMSWORTH RR6 BOX 4064 JUNEAU

TELEGRAM

ALASKA COMMUNICATIONS, INC.

PHONE: 586-6240

JUNEAU, ALASKA 99801

#

1976 FEB 5 PM 7 40

12072 POM FAIRBANKS ALASKA 02-05 520P AST

REP BOB BRADLEY

9260

JUN

I CANNOT WITH A CLEAR CONSCIENCE SUPPORT OR ENDORSE

CSHB509

BILL FREIDEL 318 YANKOVICH RD FAIR

#

TELEGRAM

CA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

1976 FEB 5 PM 7 58

12060 POM FAIRBANKS ALASKA 02-05 445P AST

PMS REP BOB BRADLEY

JUN 248

UNLESS CSHB509 CONTAIN DUAL LICENSING I WOULD URGE ITS

DEFEAT

PAUL ALLEN WAGNER JR

525 4TH AVE FAIR

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

1976 FEB 4 PM 5 59

02067 POM ANCHORAGE AK 15 02-04 945A AST

PMS REPRESENTATIVE BOB BRADLEY STATE HOUSE

POUCH V 0170

JUN

OPPOSE CSHB509 BECAUSE IT IS TO RESTRICTIVE

MR AND MRS LEAONARD HUNTER BOX 440H STAR ROUTE A

ANCHORAGE ALASKA

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6140
JUNEAU, ALASKA 99801

02070 POM ANCHORAGE AK 15 02-04 945A AST

1976 FEB 4 PM 6 01

PMS REPRESENTATIVE BOB BRADLEY STATE HOUSE

POUCH V 2123

JUN

COST OF FUNERALS ALREADY TOO HIGH CSHB509 WOULD DRIVE

THEM HIGHER

JOANNE L RAVITHIS 940 WEST 77TH ANCHORAGE

TELEGRAM

ACA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

1976 FEB 4 PM 6 02

02071 POM ANCHORAGE AK 15 02-04 945A AST

PMS REPRESENTATIVE BOB BRADLEY STATE HOUSE

POUCH V

174

JUN

CSHB509 TOO COMPLICATED, I FAVOR SIMPLICITY URGE

REVISION

IRENE BRADY 2032 BOREALIS ANCHORAGE ALASKA

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

1976 FEB 4 PM 6 45

02082 POM ANCHORAGE ALASKA 15 02-04 329P AST

PMS HON ROBERT BRADLEY

JUN

BEING MEMORIAL COUNSELOR EIGHT YEARS FEEL STRONGLY

RE-ARRANGED MEMORIAL SERVICES ARE OF BENEFIT TO PUBLIC.

THELMA KENISON 4521 CORDOVA APT 1 99503

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC. 1978 FEB 4 PM 6 45

PHONE: 586-6440

JUNEAU, ALASKA 99801

02083 POM ANCHORAGE ALASKA 15 02-04 345P AST

PMS REP BOB BRADLEY

179

JUN

OPPOSE CSHB264 AND CSHB509 BECAUSE THEY RESTRICT OFFERING

PREPLANNED FUNERAL ARRANGEMENTS

KEN PIEPGRAS STAR ROUTE B BOX 115 PALMER

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Bruce Funeral Home
P.O. Box 2351
Anchorage, Alaska 99510

February 4, 1976

The House and Senate Commerce Committee
Alaska State Legislature
Juneau, Alaska

Re: Hearing on Mortuary Science and Related Bills

Dear Legislators:

HOUSE BILL 509:
HB 509 on Mortuary Science is not at all comprehensive and leaves too many areas up to others to decide its meaning. The lack of definitions will only place this bill, if enacted, in the courts for interpretation, which is what regulatory statutes are supposed to eliminate. Thorough study of other state laws would show that very definate guide lines must be set out in the statute, then allowing further rules and regulations to be adopted if needed. Alaska will be unique in that this profession will be regulated by three agencies: Commerce, Health and Social Services and Revenue, when other states have professional boards, made of of practitioners that adopt its rules and regulations. I do not advocate a board due to the limited number of practitioners, but feel the voice of the majority of practitioners must be listened to, in that we are the ones that will have to live with these laws both professionally and economically.

As an individual as well as a member and officer of the Alaska Allied Funeral Services Association, inc., I favor a dual license whereby the funeral director does not first have to be an embalmer; strong apprenticeship/practicum training requirements; special licesne provisions in case of the death of the licensee, so that a business that has taken many years of work to develope and large financial investments, is not eliminated and cause financial loss to the survivors; fair reciprocity requirements and a well structured cost disclosure clause included as a part of the body of the "Mortician" bill and not as a piggy back issue. I personally do not desire to see the educational standards raised so high that we cannot afford to get help and want to see eliminated the area where the department has the right to decide what courses should be taken in college prior to attendance at a school or college of Mortuary Science. No other state has this requirement.

HOUSE BILL 264:
Testimony was given to the House Commerce Committee last year regarding this bill. I feel that further study should be afforded this bill to cover all avenues concerning trusting of pre-need funeral services.

Presently the Federal Trade Commission is investigating laws such as this as a restraint of trade in denying the consumer the right of choice, of pre-planning and/or pre-paying their final rites. To establish a Trust Fund, we have been informed by local Anchorage area banking institutions, that a minimum of $100,000 is required and an administration fee of $500.00 is charged to administer that fund.

HOUSE BILL 271:
Testimony was given to the House Commerce Committee also last year regarding this bill. This bill does not require any specific type of pricing, and still allows the funeral establishment to give a family one lump sum price and terms of payment. It would also make it impossible to even remove the remains from the place of death until all arrangements had been made and completed with the family and the contractual agreement signed. This is virtually impossible. We submitted a proposed substitute to you last year. During the interim of the legislature this bill, or its piggy back identical, was gone over many times.

As a practitioner in the field of funeral service, I feel that great revisions are needed to HB 509 and its piggy back issues or HB 264 or 271 which ever way they are presently written before I can support the bill.

I sincerely hope that serious consideration will be given to all testimony presented to this committee as well as a complete review of all testimony and materials submitted to the sub-committee on mortuary science over the past 5½ months.

Respectfully yours,

F. J. Witzleben, President
and Funeral Director

Bruce Funeral Home
P.O. Box 2351
Anchorage, Alaska 99510

February 4, 1976

The House and Senate Commerce Committee
Alaska State Legislature
Juneau, Alaska

Re: House Bill 509

Dear Legislators:

I, Kenneth D. Burton, duly licenses to practice the science of embalming in the State of Alaska, and being unable to represent myself, make the following statement.

I feel HB 509 as presently written is not in the best interests of my profession.

I favor:

1. Separate licenses for Embalmers & Funeral Directors (Dual License concept).
2. A comprehensive apprenticeship program for both Embalmers & Funeral Directors spelled out in the law.
3. Special, temporary licenses for widows and legal representatives for administrative purposes only.
4. Addition of definitions to prohibit loose structure and ability for private interpretation.
5. A tightly structured disclosure of costs and services section that will prevent practices that the FTC is now investigating.
6. A law that is reflective of testimony given and at least equal to the other laws of the other 49 states and is not reflective of the whims of a few.

I oppose:

1. High academic requirements in the place of "career centered" training.
2. The loose structure of HB 509 that leaves too much room for private interpretation that may have to be settled in the courts.
3. Too much power given to the Department as outlined in the Bill. Example: the Department being given the power to decide what courses should be taken to meet educational requirements.
4. The clause in the reprocity section that stipulates 1 year of practice prior to applying for reciprocal license.

I did not favor HB 509 in its original state. Many changes have been made and much work has been done. However, I personally feel that HB 509 in its present form is inadequate, does not meet the needs of the practitioners in this state, nor does it meet the needs of the consumer.

If we are to develope laws, it is our duty as citizens and your duty as legislators to see that good laws are made for the benefit of all. Since HB 509 does not meet these requirements and, I feel, is just an updated version of the vagueness already on the books, I withdraw my support of it until further studies and changes are made.

Sincerely,

Kenneth D. Burton
Bruce Funeral Home

Valley Memory Gardens and Mausoleum

ALASKA'S MOST BEAUTIFUL MEMORIAL PARK

OFFICE: 236 W 10th AVE ANCHORAGE

907/272-6850

January 29, 1976
The Honorable Bob Bradley
Chairman House Commerce Committee
State of Alaska
Pouch V
Juneau, Alaska 99801

Ref. HB 264 and HB 509

Dear Representative Bradley:

Reference is made to the forthcoming joint and House hearings on HB 264 and HB 509. For some time the Federal Trade Commission has had under investigation, the funeral industry and trade practices and has published as of August 15, 1975, "Funeral Industry Practices, Proposed Trade Regulation Rule and Staff Memorandum". It is my understanding that hearings will be held sometime in April of this year.

HB 264 and HB 509, as proposed, will give legislative sanction to Alaska funeral directors to engage in the types and practices to be found by the FTC, harmful to the public.

In this regard, I would like to draw your attention to copies of pages 1-7 of the aforementioned report, containing discussions of some of these practices and espcially pages 19-20, and 85-103 wherein funeral directors have monoplized and limited competition, in plarticular please note the information starting on page 86. HB 509 and HB 264, while appearing to protect the consumer is actually designed to restrict trade by means of making it impossible for companies to offer a pre-arrangement service while there is no immediate stress on a family because of a recent death, but rather such type legislation is designed to take advantage of the consumer by performing their services only when a family is distraught and not always thinking clearly. This is accomplished by legislating laws to requre 100% of monies received for pre-need services to be placed in trust. What seller could operate with such absolute restrictions, notwithstanding the threat of loss of license to practice and making it possible only for licensed funeral directors to sell before need?

I am in complete agreement that there should be some type of constructive legislation restricting certain funeral practices, however, I can't help but feel that this is a far more complex matter than appears on the surface, requiring a considerable amount of further study as is being borne out by the FTC investigation.

If these bills are passed in their present form, the consumer will have been denied the right of choice as to when and under what conditions he will be allowed to make final arrangements for himself or his family.

Yours truly,

Arthur S. Richmond

Arthur S. Richmond,
Valley Memory Gardens, Inc.

FUNERAL INDUSTRY PRACTICES

Proposed Trade Regulation Rule

and

Staff Memorandum

Division of Special Projects
Bureau of Consumer Protection

August, 1975

FUNERAL INDUSTRY PRACTICES

Proposed Trade Regulation Rule

and

Staff Memorandum

August, 1975

Arthur R. Angel, Attorney
William P. Golden, Attorney
Susan C. Martell, Research Analyst
Thomas C. Nelson, Research Analyst

Division of Special Projects
Bureau of Consumer Protection

James V. DeLong,
Assistant Director
Division of Special Projects
Bureau of Consumer Protection

J. Thomas Rosch,
Director
Bureau of Consumer Protection

The staff wishes to gratefully acknowledge the editorial assistance of Ann Stahl and the work of Rita Allen, Roselyn Alston, Kathryn Hermann, and Lorraine Swint in typing the manuscript. A special thanks is owed to Mary Forster for her special efforts and invaluable services.

This memorandum was prepared by the staff of the Commission's Bureau of Consumer Protection, Division of Special Projects. The Commission has not adopted any findings or conclusions of the staff.

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Commission

DATE: August 20, 1975

FROM : Division of Special Projects
Bureau of Consumer Protection

SUBJECT: Funeral Industry - File 732 3057 (Program I-12)
Proposed Trade Regulation Rule

INTRODUCTION

This memorandum supports the Funeral Industry Practices Trade Regulation Rule which has been proposed to correct the unfair and deceptive practices identified in the course of the staff's investigation. These abuses are industry-wide, and staff is convinced that a Trade Regulation Rule is the most direct and efficient way to eliminate them.

The staff formally proposed the funeral investigation to the Commission in July, 1973 after several months of preliminary investigation into industry conditions and consumer abuses. Staff's 239 page planning memo to the Commission 1/ described, in considerable detail, the industry and a number of consumer problems, and forms part of the basis for the rule we are proposing.

Following Commission approval of the formal industry-wide investigation, the staff initiated, in October, 1973 a pilot funeral price survey in the District of Columbia, the results of which were released in February, 1974. The D.C. survey was the first systematic effort to get hard data on funeral prices and practices in a particular area, and to make that data available to the public. The D.C. survey produced much useful information. 2/ It also inspired a number of similar surveys all over the country--by state and

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1/ Division of Evaluation, Bureau of Consumer Protection, Unfair Practices in the Funeral Industry: A Planning Report to the Federal Trade Commission, June 29, 1973 [hereinafter cited as F.T.C. Funeral Investigation Planning Memo].

2/ DIVISION OF SPECIAL PROJECTS, BUREAU OF CONSUMER PROTECTION, U.S. FED. TRADE COMM'N, SURVEY OF FUNERAL PRICES IN THE DISTRICT OF COLUMBIA (1974) [hereinafter cited as D.C. FUNERAL SURVEY].

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

local governments, 3/ consumer groups, 4/ and newspapers 5/ -- which have likewise yielded valuable data.

In addition to the price survey, the staff has obtained information from funeral directors, visits to funeral homes, industry employees and ex-employees, casket manufacturers, memorial society members, consumer interviews and complaint letters, trade journals, scholarly papers, and magazine and newspaper articles.

The information gathered by the investigation confirms the view expressed in our initial report that there are many serious abuses of consumers by large numbers of the nation's 22,000 funeral homes 6/ and consequently an urgent need exists for remedial action by the Commission.

Each year, millions of families are forced by the death of a relative 7/ to make one of the largest consumer

---

3/ E.g., Arkansas; Delaware; Florida; Iowa City, Iowa; Massachusetts; Minnesota; and Syracuse, New York.

4/ E.g., Indiana Public Interest Research Group; New York Public Interest Research Group; Consumer Action of Kansas City, Missouri.

5/ Newspaper surveys have been conducted by the San Bernadino Sun-Telegraph, San Bernadino, CA; St. Petersburg Times, St. Petersburg, FL; The Cincinnati Enquirer, Cincinnati, OH; The Louisville Courier-Journal, Louisville, KY; and the Northern Virginia News, Vienna, VA.

6/ The precise number of funeral establishments is not entirely clear. The most recent figures from the Department of Commerce, Social and Economic Statistics Administration indicate that there were 20,854 funeral service and crematory establishments operating in 1972. U.S. DEP'T OF COMMERCE, SUMMARY REPORT OF THE 1972 CENSUS OF SELECTED SERVICE INDUSTRIES. The industry's largest trade association, the National Funeral Directors Association has used the figure 22,500. NATIONAL FUNERAL DIRECTORS ASSOCIATION, FUNERAL SERVICE 13 (1974). The Labor Department has quoted a figure of 23,000 and has calculated that there were 45,000 licensed funeral directors and embalmers in 1972. U.S. DEP'T OF LABOR, OCCUPATIONAL OUTLOOK HANDBOOK 174 (1974-75).

7/ There were 1,977,000 deaths in the United States in 1973. U.S. BUREAU OF THE CENSUS, STATISTICAL ABSTRACT OF THE U.S., 51 (1974).

purchases, 8/ under severe handicaps of time pressures, emotional distress and lack of information or experience. 9/ As an FTC hearing examiner noted long ago, there are few, if any industries where the ultimate consumer is so disadvantaged or where his normal bargaining power is so diluted in a situation of such immediate need. 10/

The need for protections for funeral buyers is particularly acute because the funeral director plays two conflicting roles. His public relations image emphasizes his duties as a professional serving people at a time of particular desperation. His economic self-interest puts him in a different role: he is a salesman of goods and services to these same people; and, if he wants to prosper or even to survive, he must move his high profit lines.

This conflict is exacerbated because the image of disinterested professionalism makes the funeral director a more effective merchandiser. The more the public accepts the professional role, the less it will inquire, shop, or bargain, and the greater the opportunity for high mark-ups,

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8/ Based on the D.C. funeral survey and similar surveys across the country, consumers pay funeral directors an average of $1100 to $1400. Cemetery and related expenses bring the average total for funeral and burial expenses to approximately $2000. See sources cited in notes 2-5, supra; FFDA Statistical Survey Shows Few Ratio Changes, AMERICAN FUNERAL DIRECTOR 22 (July, 1975) (1974 average funeral director charge of $1287).

Gross receipts for funeral homes and crematories have been estimated at $1.91 billion for 1973, $2.00 billion for 1974, $2.12 billion for 1975, and are projected to reach $2.80 billion by 1980. U.S. DEP'T OF COMMERCE, U.S. INDUSTRIAL OUTLOOK WITH PROJECTIONS TO 1980, 480 (1975).

Outlays for items such as flowers (approximately $800 million, annually), cemetery expenses (approximately $735 million, annually), monuments and markers (approximately $450 million, annually), and burial vaults (approximately $305 million, annually), bring the total annual expenditures for funeral related items to approximately $4.2 billion. See MEDIA AND CONSUMER 14 (June, 1974).

9/ The disadvantaged position of the consumer in the funeral transaction was discussed, in detail, in the planning memorandum at 64-78. See note 1 supra.

10/ See In re Casket Mfrs. Assn., 52 F.T.C. 958, 971 (1954).

unnecessary services and unscrupulous practices. Consequently, the industry tends to promote the professional image and fight anything that would interfere with it or that would permit other than disinterested organizations to come between it and the consumer. The industry is well organized in terms of state boards of regulation and trade associations 11/ and uses its advantages to limit price disclosure, low cost disposition, pre-need arrangements, and price advertising, all in the name, of course, of professional ethics and good practice.

Once the consumer comes to the funeral home, a number of sales techniques of varying unsavoriness are used to increase the amount he spends. Some of these methods are common to many industries, and normally we rely on the forces of competition and the good sense of consumers to punish those who use them and reward those who do not. This does not work for funerals because the bereaved purchaser is not emotionally able to bargain 12/ and is seldom even aware that he is being deceived or exploited.

The nature of the funeral transaction and the incentives operating in the industry have been discussed extensively in prior memoranda, and need not be reiterated in detail here. It is enough to say that the general marketing strategy of much of the industry seems to follow the following precepts:

1. Eliminate low cost alternatives to the standard funeral through control of laws, regulations, and codes of ethics.

2. Use of any means possible - laws and regulations, propaganda, refusal to deal - to stunt the development of memorial societies or pre-need societies which can bargain on behalf of the customer in a non-emotional context.

3. Make it as difficult as possible for the consumer to obtain price information in advance of need or without coming to the funeral home.

11/ The anticipated argument that the Commission should not take action against abuses because of the presence of state regulatory boards is particularly hollow in the case of the funeral industry. See F.T.C. Funeral Investigation Planning Memo 17-30: One particularly revealing illustration is the fact that the general counsel (an active policy-maker) for the industry's largest trade association, NFDA, is also the general counsel to the conference of state regulatory boards, which proposes state regulations.

12/ Moreover, once the body is in the hands of a funeral director, the consumer is unlikely to take his business elsewhere.

4. When the purchaser comes to the funeral home, keep him confused about prices and options. Tie products together so he b 's things he would not want if he thought about it. Sell him up the price line, and suggest that any thought of economy is inappropriate.

5. Because the funeral business depends heavily upon personal referrals, it is important that the confusion be total but subtle. The consumer must be confused about prices, options and requirements, but he must not be able to discern that he is being confused deliberately.

The rule proposed here attacks every part of this strategy. It is designed to provide the consumer with substantially more information on prices and choices, eliminate the devices used to obtain unfair leverage over the consumer, abolish the outright frauds and deceptions that have been structured into the industry, and free up the market so that the dealings between funeral director and customer will be more fair, and the growth of memorial societies and pre-need arrangements more possible.

Since the Improvements Act expanded the FTC's jurisdiction to cover practices that "affect" commerce as well as those "in" commerce, the Commission's authority to promulgate Trade Regulation Rules 13/ with respect to funeral abuses is beyond serious question.

Almost every funeral home has sufficient involvement in one or more of the following activities to satisfy the statutory jurisdictional prerequisites: 14/

13/ The Commission's authority to issue Trade Regulation Rules defining certain practices as unfair or deceptive has been explicitly recognized by case. See Nat'l Petroleum Refiners Assn. v. F.T.C., 482 F.2d 672 (D.C. Cir. 1973), cert denied, 415 U.S. 951 (1974), rev'g 340 F. Supp. 1343 (D.D.C. 1972). More recently, the Commission has received explicit rulemaking authority by statute (Magnuson-Moss Warranty/FTC Improvement Act, P.L. 93-637, Sec. 202 (Jan 4, 1975)).

14/ No specific amount of sales in or affecting commerce is required; only that the amount is not de minimis. In NLRB v. Inglewood Park Cemetery Association, 355 F.2d 448 (9th Cir. 1966), the Ninth Circuit held that $3,086.31 in out-of-state purchases (out of $500,000 in sales receipts) was not de minimis. The Seventh Circuit has held that $2,000 is not de minimis. NLRB v. Aurora City Lines, Inc., 299 F.2d 229, 231 (7th Cir. 1962). In Surrey Sleep Products, the Commission rejected, as clearly without merit, the argument that $5,000 in interstate sales was de minimis. See 73 F.T.C. 523, 553 n. 3 (1968).

- purchase from out-of-state suppliers of caskets, burial vaults, and other funerary merchandise sold to customers and purchase of equipment used; 15/

- use of media and interstate communications, including the United States mail and the telephone, in connection with the arrangement and sale of and collection for funeral services and merchandise;

- sale of funeral services and merchandise to customers from different states;

- advertising in newspapers or magazines with interstate circulation, in radio broadcasts transmitted to potential customers in different states, or on billboards located on interstate highways; and

- shipment of deceased human bodies by common carrier across state lines to funeral directors located in different states and receipt for burial or other final disposition of bodies shipped across state lines from funeral directors located in other states.

15/ Out-of-state shipment of caskets and other funerary merchandise was accepted as a sufficient basis for both "in" and "affecting" commerce jurisdiction in an antitrust action decided by a United States District Court in California. See Cathay Mortuary-Wah Sang v. Funeral Directors of San Francisco, 1965 Trade Cas. Paragraph 71, 505 (N.D. Cal.). But cf. Kalin Funeral Home v. Fultz, 313 F. Supp. 435 W.D. WA 1970), aff'd 442 F.2d 1342 (9th Cir. 1971). In Cathay it was alleged that 60% of all caskets used in San Francisco came from outside the state. The staff believes that the amount of interstate shipment of caskets would be equally high in most areas of the country.

The Cathay and Kalin decisions and the Commission's jurisdiction over funeral homes are discussed in greater detail in a 16 page memo from Arthur Angel to J. Thomas Rosch dated Jan. 17, 1975 (on file).

Given the existence of funeral problems throughout the country and the magnitude of the federal government's payments 16/ to the funeral industry, funeral practices are clearly a proper concern of the federal government.

The proposed rule is directed solely to practices of funeral directors (with the exception of the section against caskets for cremation, which must also be directed against crematories, and the section preventing interference with the market, which is directed at trade associations and others beside funeral directors).

The rule does not deal with a number of related but distinguishable consumer problems encountered in our investigation which involve funeral supply companies (casket and vault manufacturers) and cemeteries.

It is possible that some of these other kinds of problems (e.g., casket and vault warranties and manufacturer's promotional materials) can be adequately resolved by negotiation or other means short of Commission Trade Regulation Rules or lawsuits. The staff has confined its proposals to practices of funeral directors because we believe they are the most serious abuses, because we do not yet have sufficient information on cemetery and allied manufacturer practices, and because attempting to include cemetery and manufacturer abuses at the same time would make the proceedings cumbersome, overburdened and time-consuming. At some later date the staff may offer additional recommendations to deal with these other issues.

16/ Veterans' burial benefits payments totalled for fiscal year 1975, an estimated $134,944,000. VETERANS ADMINISTRATION, GENERAL OPERATING EXPENSES, BENEFIT APPROPRIATIONS AND FUNDS 1976 Fiscal Year, vol. 1 at 5. Social security and other governmental benefits bring the federal government's annual funeral-related expenditures to nearly $500 million.

§ 453.6 Interference with the market.

In connection with the sale or offering for sale of funeral services and/or merchandise to the public, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice for any funeral service industry member:

(a) [Offering of inexpensive funerals] or any person, partnership, or corporation, directly or indirectly, to prohibit, hinder or restrict, or attempt to prohibit, hinder, or restrict: (1) the offering, or advertising of the availability of, low-cost funerals, immediate cremation or other forms of disposition, or arrangements for funeral services in advance of need by any funeral director, memorial society, or other person, partnership or corporation;

(2) contracts or arrangements between memorial societies and any funeral director or other person, partnership or corporation providing services for the disposition of deceased human bodies.

(b) [Price advertising] or any other person, partnership or corporation, directly or indirectly, to prohibit, hinder or restrict, or attempt to prohibit, hinder or restrict, the disclosure of accurate price information regarding funeral merchandise or services by any funeral director, memorial society, or other person, partnership or corporation offering services for the disposition of deceased human bodies, whether such disclosure is made by means of advertisements in print media or broadcast media, or in any other manner.

(c) [Reliance on price advertising restrictions] to change, restrict, make or fail to make any disclosure of accurate price information about any funeral merchandise or service by print media, broadcast media, telephone, leaflets, mailings, or in any other way, because of or in connection with any law, rule, regulation or code of conduct of any non-federal legislative, executive, regulatory or licensing entity or any other entity or person whatsoever, including but not limited to professional associations.

(d) [Price availability notice] to fail to display prominently, in any advertising or promotional materials in print or broadcast media of funeral merchandise or services, the following notice:

"Funeral home prices vary substantially. For information on our prices for funeral merchandise and services, call: [Telephone number]."

§ 453.7 Retention of documents.

To assure compliance with the provisions of this part and prevent future use of the unfair and deceptive practices it prohibits, all funeral homes subject to the provisions of this part shall be required to retain and to make available for inspection by Federal Trade Commission officials, upon request, true and accurate copies of the written disclosures or price lists required by § 453.3 (a)(2) and § 453.5 (b)(1), (d)(1), and (e)(1), and all revisions thereof, for at least three years after the date of their last distribution to customers, and a copy of each selection memorandum signed by a customer, as required by § 453.5 (f)(1), for at least three years from the date on which the memorandum was signed.

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Section 453.6 Interference with the market

The Practice

As is obvious from the foregoing discussion, much of the funeral director's power to force the consumer to increase his expenditures arises from the ignorance, confusion and emotional stress of the funeral situation. The problem is exacerbated because no individual consumer deals often enough with a funeral home to become knowledgeably wary.

The advantages of the funeral director could be offset in a number of ways. A potential decedent could make his own arrangements on a pre-need basis by entering into a firm contract arrived at in a less emotional context. While useful, the value of such a technique is limited. Most people do not like to make their own funeral arrangements, since it reminds them of some unpleasant facts. In addition, even if the decedent has entered into a firm agreement, the family is still vulnerable to the pressure of the situation, for arrangements can be revised.

A second useful offset to the funeral director's power would be price advertising, now almost nonexistent. 153/ Price advertising would give consumers information about the general standards and prices in the industry.

A third possibility, and possibly the most fruitful, is for consumers to organize. Memorial societies can develop the expertise necessary to bargain with funeral homes and can represent the interests of consumers in a way that funeral directors now profess to do.

153/ A 1967 survey found that only 2% of the nation's 22,500 funeral homes engaged in price advertising. Fulton, The Funeral and the Funeral Director: A Contemporary Analysis (1967), in STUDIES OF ATTITUDES TOWARD DEATH, FUNERALS AND FUNERAL DIRECTORS 39. However, there are indications that 2% may be a high estimate. For example, in a study conducted in Philadelphia, only one of the city's 364 funeral homes reported that it had advertised prices in recent years. G. Kissel, An Analysis of the Market Performance of the Funeral Home Industry in Pennsylvania 40, (1970) (unpublished Wharton School of Business M.B.A. thesis) [hereinafter cited as Kissel]. Another industry expert has stated that approximately 3% of funeral industry revenues are devoted to advertising, most of which is institutional rather than price advertising. Interview with Dr. Roger Blackwell, Professor of Marketing, Ohio State University, in Columbus, Ohio, May 12, 1975. What price advertising does exist, is likely to be highly concentrated in a particular region (e.g., Calif.) with most other areas having virtually none.

Two kinds of barriers exist to the use of these devices to reform funeral practices. The first consists of cultural barriers. It is far from clear that consumers are much concerned about the lack of price advertising. The psychological pressure to avoid death-related issues is strong. Additionally, much of the public has been conditioned successfully to eschew price considerations. Similar barriers exist to the use of pre-need contracts and memorial societies. Both require a consumer to advert to the future fact of his own death, an idea which most of us would prefer not to think about.

However, funeral directors prefer not to rely solely on these cultural barriers and have reinforced them with an elaborate web of state and private restrictions. Staff has more information on advertising restrictions than on the others, and the situation with respect to such restrictions is set forth in some detail. Other types of restrictions are then discussed to show the actual and potential existence of the same types of suppression of market forces.

1) The Practice: Price Advertising Restrictions

State restrictions on price advertising vary considerably. In several states, such as Massachusetts and Nebraska, advertising of prices for funeral goods or services is specifically prohibited by statute, while in others, such as Texas, statutes against solicitation of business by funeral directors may be used by state licensing boards to discourage price advertising. Similarly, price advertising is prohibited or severely restricted by regulations of the state licensing board in several states. 154/ Frequently, these administrative proscriptions are enacted pursuant to a legislative delegation of rulemaking power to the board, which exercises its authority by defining such statutory terms as "gross misconduct," "unethical behavior," and "false and misleading advertising" to include price advertisements. 155/ In other states, the staff believes

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154/ E.g., Louisiana, Missouri, Oregon, Utah, Virginia, West Virginia, and Wyoming.

155/ In Quesenbery v. Estep, 142 W. Va. 426, 95 S.E.2d 832 (1956), the West Virginia Supreme Court upheld the validity of a board regulation which declared:

> All price advertising is here declared to be unethical without exception...

95 S.E.2d at 837. Cf. Boydston v. State, 277 P.2d 138 (Okla. 1954): "Of course general advertising in itself is a character of seeking or soliciting business or patronage." At 142.

that the regulatory boards have a strong prejudice against price advertising. This bias, when coupled with the board's power to revoke or suspend licenses, effectively discourages any price advertising. 156/

Legal restrictions against price advertising are policed by the state morticians' licensing boards, which possess broad powers to revoke or suspend licenses. Composed in most states of funeral directors only, 157/ these boards have been used to protect the interests of industry members at the expense of competition and consumer interests. 158/ Regulations creating barriers to entry and restricting marketing techniques have been used to suppress competition between industry members, and, explicitly or implicitly, price advertising has been opposed. 159/ It is safe to

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156/ In response to a staff request for information on state regulations and statutes related to the funeral industry, replies were received from the executives of most state boards. Some of these responses revealed an opposition to price advertising. South Dakota's Board replied that price advertising "is generally not done as it is considered unethical. At best it would be considered misleading." Letter from Donald B. Clements, Secretary-Treasurer, South Dakota State Board of Funeral Service, to Arthur Angel, January 15, 1974. The response from Arkansas stated that the only bar to price advertising there was "good taste, knowing there is no absolute way of price advertising in an ethical manner." Letter from John W. Baker, Secretary, Arkansas State Board of Examiners and Funeral Directors, to Arthur Angel, January 7, 1974.

157/ In all but eighteen states, the state board charged with regulating funeral practices is composed exclusively of funeral directors. Public representatives are included on the boards of six of the eighteen states: Massachusetts, California, Minnesota, Arizona, Delaware, and Michigan. The other twelve have a non-industry representative who usually is a government official such as a public health or vital statistics official.

158/ Kissel, supra note 153, at 73-77; BOWMAN 64-65; Blackwell, Price Levels in the Funeral Industry, 7 Q. REV. ECON. & BUS. 75, 80-84 (1967) [hereinafter cited as Blackwell]; Hearings on S. Res. 262 (Antitrust Aspects of the Funeral Industry) Before the Subcomm. on Antitrust and Monopoly of the Senate Comm. on the Judiciary, 88th Cong., 2nd Sess. passim (1964) [hereinafter cited as 1964 Hearings].

assert that state regulatory boards are antagonistic to advertising as a competitive weapon. 159/

When the price for risking the disapprobation of the board may be loss of one's livelihood, price advertising usually will be eschewed. Some challenges, however, have been mounted against state board regulations that prohibit price advertising. In Quesenbery v. Estep, 160/ a West Virginia statute which prohibited unethical advertising had been defined by a board rule to include a ban on all price advertising. Focusing primarily on the question of the validity of the delegation of the state's police power to the board, the court upheld the delegation of broad, discretionary rulemaking power to the board and held that the challenged rule was a valid exercise of that power.

More recent cases have declined to follow Quesenbery. Grissom v. Van Orsdel 161/ explicitly declined to follow the West Virginia decision in holding that the Florida board's restrictions on advertising exceeded its statutory authority and thereby "represented an unlawful restraint on the use and enjoyment of the defendant's business, in violation of the constitutional guarantees on which defendant relied." 162/ A similar regulation of the Connecticut State Board of Embalmers and Funeral Directors was declared invalid by a Connecticut court on the ground that a statute prohibiting unethical advertising provides no authorization for a regulation against price advertising. 163/ In two other cases, state courts have found statutes restricting price advertising to be constitutionally defective. 164/

159/ Blackwell, supra note 158, at 80-84.

160/ 142 W. Va. 426, 95 S.E.2d 832 (W. Va. 1956).

161/ 137 So.2d 246 (Fla. Dist. Ct. App. 1962).

162/ Id. at 248.

163/ Taylor & Modeen v. O'Connor, Civil No. 130602 (Conn. Super. Ct. 1963), in 1964 Hearings 241.

164/ Osborn Funeral Home v. Louisiana State Bd. of Embalmers, 216 So.2d 145 (La. Ct. App. 1968) (statute which prevented class of funeral directors from advertising credit terms denied class equal protection of laws); Needham v. Proffitt, 220 Ind. 265, 41 N.E.2d 606 (1942) (prohibition on print advertising was unconstitutional discrimination against print media).

Whether or not legal sanctions exist, price advertising is widely viewed by the industry as "unethical":

> To speak of price advertising as being unethical or unprofessional may be accepting industry euphemisms for the policy of restricting competition; in any case, price advertising meets with strong disapproval in the industry. 165/

Trade associations have frequently sought to suppress such advertising either by adopting formal codes of ethics which oppose it or by using "moral suasion" to coax members to refrain from price advertising. Numerous instances have been reported whereby trade associations have expelled or otherwise harassed funeral directors who advertise the prices of their goods and services. 166/

These restraints have been legally challenged successfully. In a 1968 consent decree, the National Funeral Directors Association settled an antitrust suit brought by the Justice Department by agreeing not to keep anyone from advertising the prices of funerals. 167/ Prior to the entry of the decree, the NFDA disciplined and expelled price advertisers. The consent agreement required the Association not only to drop this practice but also to exclude any affiliated group which limits or restricts price advertising. The continuing absence of price advertising suggests that compliance with the order may be lacking. 168/

Before the Justice Department decree, a Wisconsin Circuit Court held that the NFDA and its state affiliate, the Wisconsin Funeral Directors Association, had violated

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165/ Kissel, supra note 153, at 40. See also Blackwell, supra note 157, at 79; The Oak Ridge-Knoxville Way of Death, supra note 18, at 1.

166/ The Oak Ridge-Knoxville Way of Death, supra note 18 at 1; Sansing, Deathstyles, THE WASHINGTONIAN, Aug., 1973, at 54; J. RICH & L. PLATT, FUNERAL IN THE CITY OF SYRACUSE 62-63 (1973); interview with industry informant, supra note 18; interview with Jessica Mitford, author, in Berkeley, Cal., Jan. 9, 1973; interview with union members, supra note 45; CAL. DEP'T JUSTICE, THE FUNERAL INDUSTRY pt. II, at 12 (1970) (interview with funeral director).

167/ United States v. National Funeral Directors Ass'n, 1968 Trade Cas. Paragraph 72, 529 (D. Wis.).

168/ Kissel, supra note 153, at 29. See also sources cited in note 166 supra.

the state's antitrust law by engaging in a conspiracy to suppress competition among funeral directors in the pricing of services and supplies through a policy of refraining from cost advertising. 169/ Rejecting the defendants' contention that the "professional" nature of a funeral director's services justifies curbs on advertising, the court stated:

> After a careful review of the record and analysis of the cases, the court has been constrained to the conclusion that the restraint of the code and by-law do not meet the test of the rule of reason either on the basis of professionalism, uniqueness, the public or quasi-public nature of the vocation or business, or a trade association regulation. 170/

This myriad of advertising restrictions contributes to the lack of price competition in the funeral industry--a condition acknowledged by industry consultants 171/ as well as scholarly observers. 172/ In an industry characterized by inelastic demand, competitive advertising would stimulate a redistribution of business, since new business cannot be generated. Recognizing this harsh fact of competitive life, funeral directors find it mutually advantageous to refrain from advertising prices.

The result of this non-competitive behavior has been considerable excess capacity and an oversupply of small firms. 173/ Since the individual entrepreneur's share of the market is insulated from the outside pressure of competition, inefficiencies lead directly to higher costs. Industry-wide data suggests that the industry is "operating at price levels which are based upon the cost curves of the

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169/ Wisconsin v. National Funeral Directors Ass'n, 1967 Trade Cas. Paragraph 72,289 (Wis. Cir. Ct.).

170/ Id. at 84,720.

171/ A. RAPPAPORT, AN ANALYSIS OF FUNERAL SERVICE PRICING AND QUOTATION METHODS 7 (1971).

172/ Kissel, supra note 153; Blackwell, supra note 158.

173/ 1964 Hearings 35, 185; Kissel, supra note 153 at 54; Blackwell, supra note 158, at 76-78; HIGH COST OF DYING 17; AMERICAN WAY OF DEATH 41.

many small firms rather than upon the cost curves of large firms which can spread overhead costs over large volume." 174/

Inefficiency is protected, moreover, by the unique nature of the consumer transaction, a purchase in which the decision-making has been left solely to the seller--the funeral director. This phenomenon, which Kissel terms "one of the most significant aspects of market structure," 175/ has contributed to the formation of an industry market structure which Kissel describes as one composed of "atomistic monopolies" and which Blackwell calls "a composite of local markets which possess the characteristics of oligopoly involving a differentiated product." 176/ For the consumer, the effect of these market conditions is an artificially high price structure.

Although most funeral directors claim that funeral purchasers are not interested in price information, this self-serving statement may also be self-fulfilling, for few consumers have ever had an opportunity to obtain such information. Nevertheless, the consumer expenditure involved represents a substantial purchase by millions

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174/ Blackwell, supra note 158, at 77. See also, AMERICAN FUNERAL DIRECTOR, 20 (May 1974) (remarks of Walter B. Chasen, an official of the National Funeral Directors Association):

> "Why are costs so high for building occupancy? I blame overinvestment--funeral homes are being built that can only be described as monuments to the owners' pride. Structures are being planned without regard to potential income possibilities. In many smaller communities the funeral home is not in conformity with the life style of the area. When you read about these new structures in the journals, they proudly boast of expensive imported furnishings, Taj Mahal landscaping, transmitters that will broadcast funeral services to distant points, sunken gardens, flaming torches, waterfalls, acres of parking. The net result is an investment ranging to four and five thousand dollars of real estate for every adult service conducted. It has been reliably estimated that over fifty percent of all funeral homes are overinvested.

175/ Kissel, supra note 153, at 9.

176/ Id. at 82; Blackwell, supra note 158, at 75.

of buyers every year. 177/ Frequently, funeral arrangements are made under severe time constraints by bereaved persons whose grief and disorientation preclude the exercise of normal care and judgment. Without knowledge of legal requirements or possible alternatives, funeral buyers in these circumstances are at an extreme disadvantage vis-a-vis the mortician.

In this context, price information is essential to enable consumers to make rational purchase decisions. Funeral purchasers need information about the prices, options and policies involved in selecting particular merchandise or services. Armed with such information in advance, the consumer will be in a better position to protect his own interest in negotiating a transaction with a mortician, for most purchasers deal with only one funeral director. 178/ Moreover, increased availability of cost data will enable consumers to shop comparatively if they so desire. The ability to shop comparatively in advance may also stimulate increased advance planning for funeral arrangements and permit greater consideration of purchase decisions before such decisions become imperative.

As indicated in the previous discussion of the anti-competitive effects of price advertising restrictions and the absence of competition in the industry, price advertising should spur competition. In striking down the price advertising restrictions imposed on the Wisconsin funeral industry, the court expressed its rationale:

> The basis of the common law and statutory prohibitions against unreasonable restraint of trade is the theory that competition is the life of trade and benefits the public interest...
>
> Advertising is a means or device calculated to stimulate competition in trade and generally benefiting the public. 179/

177/ For 1974, funeral homes' gross receipts were estimated to be $2.0 billion. U.S. DEP'T OF COMMERCE, U.S. INDUSTRIAL OUTLOOK--1975, WITH PROJECTIONS TO 1980, at 420 (1975). See also D.C. FUNERAL SURVEY 25-34.

178/ BOWMAN 52; 1964 Hearings 185; Kissel, supra note 153, at 9-12; A. RAPPAPORT, supra note 171; Madden, supra note 91.

179/ Wisconsin v. National Funeral Directors Ass'n, 1967 Trade Cas. Paragraph 72,289 (Wis. Cir. Ct.), at 84,720.

By increasing competition, firms would be able to obtain additional market share through the promotion of better facilities or lower prices. Inefficient firms would be weeded out of the marketplace, and the economies of scale associated with large-scale operations should be realized. 180/ Where competitive rivalry exists, the result should be lower prices for the consumer. 181/

It is recognized, however, that the elimination of price advertising restrictions will not necessarily result in an upsurge of such ads, for price advertising is scant or absent even in localities where such restrictions apparently do not exist. 182/ The reasons for this reluctance to advertise prices have been traced, as mentioned earlier, to the prevailing market conditions in the industry. Consequently, the proposed rule contains a requirement that the availability of price information be advertised. By proposing such a disclosure, the staff believes that the objectives aptly summarized by Blackwell will be promoted:

> Because consumers are uninformed, purchase infrequently, and avoid prepurchase planning, regulatory codes should be rewritten to encourage rather than to discourage the type of marketing strategy which stimulates more attention to the funeral purchase decision and which disseminates information about comparative facilities, services, and prices. . . . Competitive rivalry is not restricted to price, of course. Other variables more valued by the consumer than price may be emphasized; but in a competitive market, the consumer should be the final judge as to which marketing mix best satisfies him. 183/

2) The Practice: Other Restraints

Attempts to limit or suppress competitive forces are not confined to price advertising restrictions. The introduction of cost-saving services, such as pre-need contracts and immediate cremations, has been hampered by a number of

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180/ Blackwell, supra note 158, at 82-83; Kissel, supra note 153, at 54.

181/ Kissel, supra note 153, at 55, 116-117; Blackwell, supra note 158, at 83.

182/ See note 153, supra, and accompanying text.

183/ Blackwell, supra note 158, at 82-83.

public and private restraints similar to those encountered by potential price advertisers. In some cases, state board sanctions have curtailed the use of these marketing devices; 184/ in others, aggressive competition has been formally opposed by industry-wide associations. 185/ This part of the proposed rule does not purport to override any state laws or regulations in areas other than price advertising; it does, however, prohibit private interference with the offering or promotion of inexpensive alternatives to the traditional funeral.

Pre-need contracts, whereby a person makes funeral arrangements during his or her lifetime, have been hailed as an opportunity for the customer to make sensible purchasing decisions without the pressure imposed by time and bereavement at death. 186/ Since a clear-eyed purchaser may be apt to spend his money more carefully than grieving survivors, the industry has not looked kindly upon these transactions. 187/ Howard Raether, the Executive Secretary of the National Funeral Directors Association, cautioned his colleagues:

> Are you ready, willing and able to become part of a program that is going to lower the quality of the average funeral service selected to the point where you will find it difficult, if not impossible, to stay in business rendering the service you now give?
>
> If funeral directors insist on soliciting pre-need funerals, they are in fact prearranging the funeral of their profession. 188/

Because immediate cremation reduces the range of merchandise and services which can be sold, 189/ it presents a cheaper method of disposition than the traditional funeral

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184/ E.g., Oklahoma ex rel. State Bd. of Embalmers & Funeral Directors v. Guardian Funeral Home, 429 P.2d 732 (Okla. 1967).

185/ E.g., Utah Funeral Directors & Embalmers Ass'n v. Memorial Gardens of the Valley, Inc., 17 Utah 2d 227, 408 P.2d 190 (Utah 1965); Cedar Memorial Park Cemetery Ass'n v. Personnel Associates, 178 N.W.2d 343 (Iowa 1970).

186/ See generally, Sher, Funeral Pre-arrangement: Mitigating the Undertaker's Bargaining Advantage, 15 STAN. L. REV. 415 (1963).

187/ See cases cited in note 185, supra.

188/ Cited in 1964 Hearings at 106.

189/ But see the discussion of the casket-for-cremation requirement supra, at 28-33.

service. The growth in popularity of cremations 190/ has, therefore, been viewed with apprehension by members of the funeral industry, whose opposition to cremation "clubs" has at times taken more active forms. In California, a low-cost cremation firm was harassed by the industry, which sought to induce crematories to cease dealing with the firm and which instigated an unsuccessful move to place the firm under the jurisdiction of the state funeral directors' board. 191/ Moreover, staff investigations revealed that one of the industry's largest chains established a competing subsidiary and indications that its purpose may have been to drive the independent firm out of business through predatory pricing. Other incidents of harassment by industry-dominated state boards have been reported in Florida and Arizona.

Several examples of industry interference with the operations of memorial societies have been documented. These groups, which contract with cooperating funeral directors to furnish various specified types of funerals to their members at prescribed prices, are sometimes able to secure more favorable rates by virtue of their collective purchasing power. Society leaders are familiar with funeral practices and have acquired expertise in dealing with morticians. These factors, which permit the consumer to make funeral arrangements in a more advantageous bargaining position, have created industry opposition to memorial societies and the funeral directors who cooperate with them.

In Massachusetts, the state board coerced seven cooperating morticians into severing their ties with the nonprofit New England Memorial Society, and the Society claims that no Massachusetts funeral director will enter into a written contract with a memorial society for fear

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190/ See, e.g., Roberts, Cremation Gaining Favor in U.S., N.Y. Times, Dec. 6, 1970, at 1; Voelker, The American Style Funeral Fights for Its Life, Pittsburgh Post-Gazette, April 10, 1972, at 1; Bonin, Ashes to Ashes or Dust to Dust?, Miami Herald, April 21, 1974 (Tropic Magazine), at 18.

191/ The firm's president labeled the latter attempt as "having the railroads regulate the airlines". A Move to Embalm Cremation Clubs, BUS. WEEK, Sept. 21, 1974, at 89.

of license revocation. 192/ A Knoxville, Tennessee funeral director was ostracized by other funeral directors in the area for advertising prices and dealing with memorial societies. 193/ The harassment extended to an alleged boycott by local suppliers; one supplier who did deal with the funeral home was reportedly "cut off" by other funeral directors. Moreover, any Tennessee funeral director who contracts with a memorial society is threatened with loss of license by the state board. 194/

A San Francisco funeral director who was expelled from the NFDA alleged that his expulsion was due to his promotion of low-cost funerals, his price advertising, and his cooperation with the Bay Area Funeral and Memorial Society (whose founders included author Jessica Mitford and her husband). 195/ Since the mortician had been advertising prices for some time, there was speculation that his dealings with the memorial society prompted his expulsion. 196/

Such attempts to harass the activities of firms providing more economical funeral services help to continue the industry's insulation from the forces of price competition. Many of these efforts have been organized by industry members, who have sought to protect their status (and preserve their inefficiency) by limiting the choices that would otherwise be available to consumers. By declaring market interference on the part of private parties, whether on an individual or a group basis, to be unfair, the rule seeks to make the option of low-cost funeral services a viable one.

192/ Interview with Cmdr. R. F. Armknecht, Dr. George Richardson and Rev. Frances Caswell, Memorial Society of New England, in Brookline, Mass., Dec. 11, 1972.

193/ The Oak Ridge-Knoxville Way of Death, supra note 18, at 1.

194/ Id. at 3.

195/ See Cathay Mortuary-Wah Sang v. Funeral Directors of San Francisco, Inc., 1965 Tr. Cas. Paragraph 71,505 (N.D. Cal.).

196/ Interview with Jessica Mitford, supra note 166.

3) Discussion of Section 453.6

The Rule

(a) Offering of Inexpensive Funerals

or any other person, partnership or corporation, directly or indirectly, to prohibit, hinder or restrict, or attempt to prohibit, hinder or restrict,

(1) the offering, or advertising of the availability of, low-cost funerals, immediate cremation or other forms of disposition, or arrangements for funeral services in advance of need by any funeral director, memorial society, or other person, partnership or corporation;

(2) contracts or arrangements between memorial societies and any funeral director or other person, partnership or corporation providing services for the disposition of deceased human bodies.

Effect of the Rule

Paragraph (a) of Section 453.6 deals with private attempts to restrict the availability of alternatives to the traditional, costly funeral service. By expanding the application of the rule to cover any other "person, partnership or corporation", this rule provision, by definition, 197/ also applies to trade associations or other industry groups.

As the previous discussion suggests, lack of competition in the funeral industry is reflected by an oversupply of funeral homes. In such a setting, the low number of cases which this market structure allots to each home must yield a profit. To remain in business, therefore, a funeral home will usually have to sell more "Cadillacs" than "Volkswagens", (or charge "Cadillac" prices for Volkswagens) and the nature of the funeral transaction permits this tilt toward high-priced entries. When less expensive methods of human disposition have been introduced, therefore, the reception in the industry has been frequently hostile. Several examples presented to the staff during the course of the investigation reveal that antagonism toward cost-cutters, especially among some trade associations, has at times been transformed into overt interference with the former's methods of operation.

197/ See rule definition (d).

Under paragraph (a)(1) of the rule, private interference with the offering or advertising of cremations, pre-need contracts, and inexpensive funeral arrangements is declared to be an unfair act or practice. For example, activities which induce suppliers to cease dealing with funeral homes promoting low-cost funerals, cremations, or pre-need contracts would be prohibited, and trade association sanctions against funeral directors who offer these alternatives would also run afoul of the rule. Harassment of low-cost cremation companies by funeral directors or trade associations--exemplified by reported incidents in Florida and California--would likewise be prohibited by paragraph (a)(1).

Interference with the efforts of memorial societies to make funeral arrangements for their members and retaliatory acts taken against cooperating morticians are the targets of paragraph (a)(2). Memorial societies represent valued alternatives to many persons who prefer to deal with a group versed in experienced purchasing than with an experienced seller in an individual, emotion-wracking transaction. Because memorial societies can often offer substantial savings to their members, they are looked upon with disfavor from many in the trade, and those funeral directors who do enter into arrangements with them may be harassed by their colleagues. Under this paragraph, ((a)(2)), it is an unfair act or practice for any private party, including trade associations, to prohibit, hinder, or restrict any such existing contractual relations or any future transactions whereby memorial societies seek to obtain services for the disposition of their deceased members.

The Rule

(b) Price Advertising

or any other person, partnership or corporation, directly or indirectly, to prohibit, hinder or restrict, or attempt to prohibit, hinder or restrict, the disclosure of accurate price information regarding funeral merchandise or services by any funeral director, memorial society, or other person, partnership or corporation offering services for the disposition of deceased human bodies, whether such disclosure is made by means of advertisements in print media or broadcast media, or in any other manner.

Effect of the Rule

The foregoing analysis of price advertising restrictions in the funeral industry has indicated that price advertising is virtually non-existent. 198/ While state laws and regulations--which are addressed by paragraph (c)--have contributed to the absence of price advertising, self-policing by industry trade groups and pressure from other funeral directors share the responsibility for restricting the flow of price information to the public. 199/ Under paragraph (b), all restrictions by any person, partnership, or corporation on the disclosure of accurate price information about any funeral product or service are declared unfair acts or practices.

The purpose of this provision is to remove private impediments to the accurate disclosure of price information by funeral directors who choose to advertise. Unlike paragraph (d), it creates no specific duty to disclose any particular information, but seeks to allow funeral directors who choose to advertise prices to do so freely. Again, the rule's coverage is broadened to include any other "person, partnership or corporation" in the scope of its prohibition, so that efforts by trade associations or others to restrict price advertising by their members (e.g., codes of ethics with accompanying disciplinary sanctions) will violate the rule.

Paragraph (b) parallels proposed Rule I of the Disclosure Regulations Concerning Retail Prices for Prescription Drugs. 200/ As shown, similar extralegal and semi-official restraints on the advertising of prices exist in the funeral industry and deserve similar treatment by the Commission. Here, too, price advertising is widely regarded as unprofessional or unethical, and the consumer suffers from the dampening effect on competition and from an inability to compare alternatives. In both cases, the removal of private restraints is an essential step toward the increased disclosure of price information.

198/ Note 153 supra.

199/ Since the state regulatory boards are controlled by the industry (note 156 supra), it would not be incorrect to state that the industry, by one means or another, bears the entire responsibility for price advertising restrictions.

200/ 40 Fed. Reg. 24031 (June 4, 1975) (proposed Trade Regulation Rule).

The Rule

(c) Reliance on Price Advertising Restrictions

> to change, restrict, make or fail to make any disclosure of accurate price information about any funeral merchandise or service by print media, broadcast media, telephone, leaflets, mailings, or in any other way, because of or in connection with any law, rule, regulation or code of conduct or any non-federal legislative, executive, regulatory or licensing entity or any other entity or person whatsoever, including but not limited to professional associations.

Effect of the Rule

Like paragraph (b) of the rule, this paragraph tracks the requirement imposed by the Prescription Drug Rule 201/ in order to overcome the same obstacles to price advertising: restrictive state laws and state licensing board regulations. In a number of states, the staff's investigation has found that price advertising is forbidden by statute, by licensing board regulations or by the board's interpretation of the statute or regulations. 202/ Similar treatment of these official restraints is accordingly proposed under the rationale espoused in the Prescription Drug Task Force Report. 203/

Under paragraph (c), it is an unfair act or practice for a funeral home to change, restrict, make or refuse to make any disclosure of accurate price information about any funeral product or service because of any law, rule or code of conduct of any non-federal legislative, executive, regulatory or licensing entity or any other entity or person, including trade associations. The purpose of this section is to create a duty on the part of funeral service industry members not to be influenced by or to rely upon such laws, regulations, or codes in making decisions on whether and how to make disclosures of prices of funeral merchandise and services. By forcing a conflict between this federally created duty and inconsistent existing state laws or state board regulations, this provision seeks to preempt repugnant state law. In promulgating the rule, the Commission is declaring federal law under the authority of the Federal Trade Commission Act; pursuant to the supremacy clause of the United States Constitution, this

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201/ Id. Rule II(b)(1).

202/ See text at note 154, supra.

203/ FTC Staff Report, Prescription Drugs: Retail Price Disclosure (Jan. 28, 1975).

rule, as an interpretation of the Federal Trade Commission Act, will become the supreme law of the land on the matters it covers and within the confines of the Commission's jurisdiction.

This paragraph requires each funeral industry member to ignore any non-federal regulation relating to the accurate disclosure of funeral prices. At present, a funeral service industry member must weigh and consider the possible repercussions of violating both private and official restrictions if he wishes to disclose prices. Under this provision, a mortician must act as if there were no requirements governing funeral price disclosures other than the rule. His failure to eliminate all consideration of these state or private restraints in order to disclose price information adequately would therefore constitute an unfair act or practice under paragraph (c).

The Rule

(d) Price Availability Notice

to fail to display prominently, in any advertising or promotional materials in print or broadcast media of funeral merchandise or services, the following notice:

> Funeral home prices vary substantially. For information on our prices for funeral merchandise and services, call: [Telephone number].

Effect of the Rule

Paragraph (d) requires that a funeral industry member who chooses to advertise or to distribute promotional material in any media must disclose that funeral prices vary and that telephone disclosure of the prices of individual products and services can be obtained by calling the funeral home. While the rule does not go so far as to mandate advertising, it does require that the price availability notice appear in all media promotional materials used by the funeral home.

The use of affirmative disclosures in advertising has been a remedial tool whose implementation is within the discretion of the Commission. In requiring health warnings on cigarettes to correct the effects of deceptive non-disclosure of the dangers inherent in smoking, the Commission stated:

> 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? 204/

Although the Funeral Trade Regulation Rule is predicated on Section Five's proscription against unfair acts or practices more than deception, consumer injury likewise results from the widespread failure to advertise prices or the suggestion that price comparisons are inappropriate in purchasing funeral services.

As shown, the noncompetitive structure of the funeral industry market and the peculiarly captive nature of the funeral transaction have led to a unique situation in which there are too many sellers charging too high prices to buyers who have become accustomed to simply paying the final bill. Unlike the prescription drug industry, where large chains have long been clamoring for an opportunity to advertise prices, the funeral industry has maintained a virtually unanimous stance against price advertising. The apparent removal of public and private restrictions to such advertising in some areas has not stimulated promotional efforts in these localities. 205/ In an industry where price considerations have been purposely downplayed, the required message is essential to inform consumers that price information is an appropriate concern and is available. As a corrective measure, 206/ the disclosure requirement is reasonably related to the consumer injury resulting from the previous absence of funeral price information. If effective, the message will encourage price comparisons and price competition.

204/ Statement of Basis and Purpose of Trade Regulation Rule 408, Unfair or Deceptive Advertising and Labeling of Cigarettes in Relation to the Health Hazards of Smoking, 29 Fed. Reg. 8324, 8352 (1964).

205/ Notes 153 and 168 supra.

206/ Moreover, under Sec. 202 of the Magnuson-Moss Warranty--Federal Trade Commission Improvement Act, P.L. No. 93-637 (Jan. 4, 1975), a Commission rule may include requirements "prescribed for the purpose of preventing such [unfair or deceptive] acts or practices." The disclosure of the availability of price information may be viewed as a means by which the purchaser can minimize the seller's bargaining advantage (and use of unfair tactics) by familiarizing himself with aspects of the transaction.

At this point, the staff does not believe that the additional costs imposed by the requirement will be prohibitive. The rule does not require advertising, but those funeral industry members who choose to advertise must include the few words of the price availability notice. Comment shall, of course, be received on the cost issue during the rulemaking proceeding. Unless the ineffectiveness of the notice can be definitively shown, the staff believes that any additional costs will not be prohibitive in light of the anticipated beneficial effects resulting from the infusion, however limited, of price competition into the funeral marketplace.

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

From colonial days until the 19th century, the American funeral was almost exclusively a family affair, in the sense that the family and close friends performed most of the duties in connection with the dead body itself. It was they who washed and laid out the body, draped it in a winding sheet, and ordered the coffin from a local carpenter. It was they who carried the coffin on foot from the home to the church and thence to the graveyard and who frequently -- unless the church sexton was available -- dug the grave. Funeral services were held in the church over the pall covered bier and a brief commital prayer was said at the gravesite. Between the death and the funeral, the body lay in the family parlor where the mourners took turns watching over it, the practical reason for this being the ever present possibility that signs of life might be observed.

The first undertakers were drawn mainly from three occupations, all concerned with some aspect of burial. The livery stable keeper, who provided the hearse and funeral carriages, the carpenter or cabinet maker who made the coffins and the sexton, who was generally in charge of bell

tolling and grave digging. In some of the larger cities, midwives and nurses advertisied their services as occupational layers out of the dead and were so listed in city directories. The undertaker's job was primarily custodial. It included supplying the coffin from a catalogue or from his own establishment, arranging to bring folding chairs, taking charge of the pall bearers, supervising the removal of the coffin and loading it into the hearse, and in general doing the necessary chores until the body was finally lowered into the grave.

Shortly before the turn of the century, the undertaker conferred upon himself the title of "funeral director".[2]

Today, when a death occurs, a member of the family of the deceased calls the funeral director, who obtains such information as the name and age of the deceased, the name of the attending physician and the cause of death. The funeral director makes contractual arrangements for his services, secures the requisite information for newspaper

[2] Mitford, The American Way of Death, pp. 199-200 (1963).

funeral notices and obituaries, ascertains the names of the pall bearers and communicates with them, checks the availability of the officiating minister and the church and makes arrangements for the burial. He assists in conducting the funeral service and in moving the coffin to and from the hearse. If the body is to be shipped, he makes the arrangements.[3]

In an effort to promote respect for their calling, men within the occupation of funeral directing have fostered legislation demanding the highest standards of conduct for their members. However laudable may be the aim of winning recognition and respect, the result has been the creation of a patchwork system of revocation clauses calling for a standard of conduct higher than needed in many instances. (see listing of revocation sections in the Statutes of 50 States wherein "solicitation" is a ground for revocation or suspension of the funeral director's license).[4]

The present revocation sections are unduly repressive in two ways. First, they do not provide the

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[3] Gholson v. Engle, 9 Ill2d 454 (1956).

[4] See Statutes of 50 States, infra.

ractitioner with any precise, clear cut standard to which
can conform, second, they do not conform with the basic
stification for the regulation of funeral directing --
blic protection.

License revocation is an exceptionally severe
nalty. Despite the prevailing attitude that revocation
oceedings are not penal in nature, it must be conceded as
practical matter that loss of a license is one of the
aviest penalties that can be imposed on a practitioner.
e means to secure a livelihood should not be denied where
e denial is calculated to effect an aim of any less
portance than protection of the public. Further, license
vocation should not be tolerated unless the crime, act or
ttern of conduct of the licensee adversely reflects upon
s ability to perform properly the duties of his profession.
this connection, practically all of the 50 states have
icted legislation which provides that the solicitation of a
y "after death or while death is impending", by a funeral
rector constitutes "unprofessional conduct" for which action

the license of the funeral director may be revoked. A careful reading of the statutes, however, will reveal that the apparent legislative intent behind listing "solicitation" as a grounds for revocation is to protect the grieving family from the hands of the zealous funeral director at a time when the family may be exploited. In support of this contention, a California court has construed their statute, containing identical language to the above, thusly:[5]

> The solicitation section is not arbitrary or discriminatory and bears relation to the public welfare. It is aimed at preventing the commercialization of death at a time when those concerned are emotionally upset and easily imposed upon. The legislature acted well within its powers in providing for the protection of the public from the annoyance of direct solicitation of the bodies of members of the family while death is impending or immediately thereafter. It is a matter of common knowledge that during that period the people involved are distraught and emotionally distressed. The obvious purpose of this section is to prevent funeral directors from taking undue advantage of their patrons when they are in no condition to withstand pressure. It is to be noted that the prohibition as to solicitation is not absolute. Solicitation by general advertisements is expressly permitted and solicitation while death is not impending by implication, also is permitted." (Emphasis added)

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[5] Drummey v. State Board of Funeral Directors, 13 Cal 2d 75 (1939).

In accordance with the Drummey case, funeral directors and those who are not licensed to practice funeral directing have attempted to institute programs whereby persons are solicited to arrange for their own funeral on a pre-need basis. A pre-arranged funeral is simply a situation wherein a person agrees with a funeral director for the latter to furnish certain merchandise and services in connection with his own funeral. A pre-arranged funeral is totally advantageous to the purchaser in that he is provided an opportunity to discuss rationally both the mode and cost of his funeral.

Despite the advantages of making the pre-arranged funeral available to a large segment of our population by soliciting the public for such arrangements, the funeral directors and those acting on their behalf have been reluctant to engage in such solicitation for fear of reprisals in the form of license revocation.

Inasmuch as most states have not recognized the distinction between the evils behind solicitation of dead bodies and the advantages behind soliciting on a pre-need basis, the profession of funeral directing has been left to operate on an ad hoc basis with the hope of avoiding reprisals for their solicitation.

The real policy behind prohibiting funeral directors from soliciting patrons is best expressed in Mashburn v. Board of Funeral Directors and Embalmers.[6]

> Respecting the solicitation of funeral business . . . we interpret the legislative prohibition to mean that the licensee funeral director shall not, by act of work or deed, entice, importune, allure, excite or ask for the funeral or embalming business respecting the dead body of a deceased person. The reason for this prohibition is clearly to protect those in the throes of deep grief at the loss of a loved one from being left unwittingly into commitments which they would not have entered into except for their grief and their consequent inability to follow an ordinary business transaction. (Emphasis added)

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[6] Mashburn v. Board of Funeral Directors and Embalmers, 132 Cal App2d 126 (1955) at page 136.

There is no question that the states have a legitimate interest in preventing embalmers and undertakers from taking unfair advantage of their patrons at a time when such patrons are in no condition to withstand pressure. The problem to be discussed herein is whether the prohibition respecting the solicitation of dead human bodies can legitimately be extended to the solicitation of a patron to pre-arrange his own funeral.

THE "AT NEED" SITUATION

From time to time stories appear which evidence the success of the salesmanship of certain funeral directors. Perhaps the most publicized case of funeral directors taking advantage of their superior bargaining position occurred in connection with the 1947 coal mine disaster in Centralia, Illinois, in which 111 miners died. An investigation made by the United States Coal Mine Administration revealed that as much as $1,178.50 was charged for a funeral; that the average cost was $732.78; and that charges for identical caskets and services varied by several hundred dollars, in accordance with the magnitude of union welfare death benefits and state compensation.[7] It was this spectre of funeral directors flocking to the 1947 coal mine disaster andother such disasters that prompted state legislatures to enact statutes providing for the revocation or suspension of the license of any funeral director soliciting a dead body.

Although dishonesty or abuse may not be widespread, economid factors force undertakers to do everything possible

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"New York Times", August 3, 1947.

to maximize the proceeds of each funeral handled. Both the funeral industry and its critics point out that the market for funerals is limited because there are only a certain number of deaths per year and the death rate is nearly static or has declined.[8] There are a great many undertakers competing for business in this inelastic market, and the average number of funerals handled by most funeral directors is suprisingly low. Of the 790 firms that participated in the National Funeral Directors Association's survey for 1960; 61% conducted fewer than 100 funerals; 27% conducted 100-199; 7% conducted 200-299; and only 5% conducted more than 300 funerals.[9] Since the funeral director's large operating cost and overhead must be met from the proceeds of these few funerals, it is easy to understand why many funeral directors think it imperative to sell the most expensive funeral that traffic will bear.

It is in this market situation, then, that the person who must arrange a funeral finds himself. Most often

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[8] Krieger, Successful Funeral Service Management, page 26 (1951).

[9] National Funeral Directors Association, "Funeral Service Facts and Figures", page 10 (1961).

he is a relative or friend of the deceased and is too distressed to resist high pressure selling. Almost certainly, he will be disinclined to shop around for better prices or services and there is some doubt whether his position would be much improved even if he did. It is therefore quite possible that he may be influenced to choose expensive merchandise and services that he or the estate cannot afford and that, in the absence of emotional strain, he would not select. In short, one who must arrange a funeral is generally on the weak side of a most unequal bargaining situation. The result may be, from his point of view, a very bad bargain. For the same reasons he did not shop around and try to make a better bargain, it is unlikely that he will attempt to withdraw from the bargain once made. And should he later regret the expensive arrangement to which he has committed himself or the estate, the mere fact of high pressure salesmenship will not justify avoidance. If he could show that his consent to the agreement was induced by false representations, the contract obligation might be avoided. Though no decision has been found in which a funeral contract was attacked on this ground.[10]

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[10] See 15 Stanford Law Review, 415 (1962).

Traditionally, when the funeral director obtains possession of the remains of the deceased immediately subsequent to his death, the customer has already given up the greatest bargaining asset that he possessed in any transaction, namely, the privilege of declining all offers and seeking another seller. When he turned over the body to the funeral director he practically limited himself to that one practitioner. Seldom, if ever, is a body taken by the family from one establishment to another because of dissatisfaction or disagreement over the terms. Moving the body to the funeral parlor in the first place is done by the undertaker as a matter of course. The procedure is accepted by the family because of, first, its reliance on him for the proper steps to be taken, and, second, because of the almost universal desire to have the body out of the living quarters.

In order to improve the bargaining situation of those who must deal with funeral directors, the only realistic solution is pre-arrangement -- generally in the form of arrangements with undertakers who agree to make available

a simple, moderatley priced funeral. By making arrangements in advance, it is possible to insure that decisions are rational, as they frequently are not during periods of grief where there is a strong desire to escape reality and to ignore practical matters. Even when grief is not overwhelming, persons respond to sales pressures applied by members of the trade with greater readiness than in other circumstances.

Death strikes its most awful blow to the hearts and minds of those whose association has been most intimate and continuous with the person whose life has ended. All the defensive attitudes that may have been built up against its coming, all the rationalizations in which anyone may have indulged about its inevitability -- these are paper armor when the sad hour comes. Philosophy and faith may help to meet its crisis, they are, however, but ways of coping with it; the happening itself is tragedy. Death may be long in coming because of prolonged sickness or lengthened weaknesses of old age, until the final going is shorn of its most tragic features.

It is this procrastination of arrangements for one's own funeral that have allowed funeral directors the bargaining advantage when the time finally arrives. It is conceded that the state has the legitimate authority to protect the public from any unscrupulous funeral director at the time of need. Thus, statutes which impose sanctions for the improper securing or solicitation of business are definitely in the public interest.[11]

The following is clearly the type of solicitation for which states have listed as cause for revocation:[12]

> Turning to the evidence offered to support Count VI, there can be no question that said evidence was sufficient to show that Earle Wright, the manager for the plaintiff (funeral director), solicited for preparation the burial of the human dead body of M.E. Kemnitzer. Said Earle Wright heard of an accident and rushed to the scene, arriving there before the deputy coroner arrived. He falsely stated to the deputy coroner that he had a written order from a member of the family for the delivery to the plaintiff of the remains of said deceased.

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[11] Louisiana Undertaking Company v. Louisiana State Board of Embalmers, 58 So2d 303 (La. 1953).

[12] Daggett v. Board of Funeral Directors, 44 Cal App2d 742 (1941).

When asked to produce it, he stated that it was at plaintiff's office. Wright then returned and aroused an employee from his sleep; told him that the deputy coroner was bringing the body to plaintiff's establishment; Wright told him that they might not be able to hold the body but to start embalming as soon as possible and at least the charge for embalming could be collected. Wright then rushed to the apartment house where the widow of the deceased resided. He was well acquainted with the operator of said apartment and, with her assistance, he met with the widow of the deceased and obtained from her an order for the coroner to turn the remains over to plaintiff. He then went to plaintiff's establishment where the deputy coroner was still waiting, delivered the order to him and said deputy coroner left the remains at plaintiff's establishment.

The court noted that this, in fact, was the type of solicitation that the California statute was designed to prevent.

To further illustrate the necessity and justification for revocation of licenses of funeral directors who engage in "legal ambulance chasing", I cite the following:[13]

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[13] Harmer, The High Cost of Dying, page 170 (1963).

In 1961, a report of an investigation of activities in the Los Angeles County Coroner's Office, which handles between 10,000 and 11,000 cases a year, revealed how assiduously undertakers have been working outside the law to obtain bodies. According to County Coroner Theodore J. Curphey, the investigation -- which later attracted the FBI's interest -- began in the summer of 1959, when they noticed that several Los Angeles funeral directors seemed to be picking up from the central morgue more coroner's cases than would normally be their share, when considering their total business handled in previous years. Since most of the cases checked revealed that there were no local relatives, it became apparent that some of the employees were turning over confidential information to undertakers. The undertakers then got in touch with distant relatives to solicit business . . . it was made more reprehensible by the informed undertaker's announcement to the distant relatives that he had the body, when it was actually still in possession of the coroner's office and could not be released without consent of the relatives. Needless to say, the mortician readily received authorization to conduct the funeral, and armed with that consent he went to the morgue and obtained the body.

Practices such as this have justifiably given rise to state legislation imposing sanctions for this type of action. However, the meaning of the "solicitation" cannot legitimately be extended to apply in those situations wherein a funeral director or his agents solicit a person to arrange a funeral on a pre-need basis. The basic difference

between the situations is two-fold: in the first instance the funeral director is depriving the survivors of their right to choose who shall provide for the disposition of the remains of the deceased. Pre-arrangement is a situation whereby a person is solicited to arrange his <u>own</u> funeral at a rational cost and under less strenuous circumstances. Thus, in the former case the solicitation can act to <u>alter</u> or <u>deprive</u> the choice of the survivor as to the care and disposition of the remains and cost of the funeral, while in the latter case the solicitation provides a person with an opportunity to <u>make</u> those very choices.

Important

PRE-ARRANGEMENT OF FUNERAL SERVICE

Too often people complain bitterly that they would have decided on more modest funerals for their loved ones if they had been given an unfettered choice. Many who have had to lower their standard of living because of a lavish funeral have discovered that their decisions have not been based on a rational assessment of the lasting value of funerals to the family. There is a very serious question that the lasting returns from the expensive funerals are commensurate with the outlay in any but a limited number of instances. The wished for result of large expenditures traditionally is the elevation of the status of the family in the community of acquaintances. But rarely is the status of a family raised in the opinion of neighbors and friends by ostentation at a funeral. Almost invariably it is recognized as a conspicuous display, whether it is approved or not. In order to avoid the ostentatious and conspicuous display at funerals and to further avoid the "grief syndrome" that accompanies these displays, an individual can arrange for his own funeral at stated price on a pre-need basis.

Pre-arranged funerals, whereby a person while still
live specifies the mode and cost of his final disposition,
re, for obvious reasons, much less expensive than those
rranged by grieving and vulnerable survivors. The National
elected Morticians, an organization consisting of 800 members,
as determined that the average adult figure for a funeral
n 1970 was $925.00. Surely, by pre-arranging a simple,
ow cost funeral for himself, in advance of death, this
igure can be largely reduced. 1973 - National average overhead cost to funeral home per adult not including casket - funeral $938. quoted in Progressive Method. November Dec. 1974

1974 figures will not be available until May

A pre-need burial contract has been defined as a
ontract, which has for a purpose the furnishing or per-
ormance of funeral services, or the furnishing or delivery
f personal property, merchandise or services of any nature
n connection with the final disposition of a dead human body,
or future use at a time determinable by the death of the
erson whose body is to be disposed of. Traditionally, this
efinition does not include the furnishing of a cemetery lot
r mausoleum.[14] In recognition of the states legitimate
nterest in promoting the pre-arrangement of funeral services,

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[14] Kentucky Revised Statutes, Section 316.103.

35 states have enacted legislation requiring that funds received pursuant to the sale of a pre-arranged funeral service be deposited in trust.[15]

Typical of these statutes is the Illinois Funeral or Burial Trust Fund Act.[16] Illinois Revised Statutes Chapter 111-1/2, Section 73.101 provides:

> Any payment of money made to any person, partnership, association or corporation upon any agreement or contract, or any series or combination of agreements or contracts, which has for a purpose the furnishing or performance of funeral services, or the furnishing or delivery of any personal property, merchandise or services of any nature in connection with the final disposition of a dead human body, for future use at a time determinable by death of the person or persons whose body or bodies are to be so disposed of, shall be held to be trust funds and the person, partnership, association or corporation receiving said payments is hereby declared to be a trustee thereof.

This statute also provides that all such trust funds must be deposited in the name of the trustee within 30 days after receipt thereof with either a bank of a trust company.[17] In this connection, no person, firm, partnership,

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[15] See Note 3, supra.

[16] Illinois Revised Statutes, Chapter 111-1/2 §73.101 et seq.

[17] Illinois Revised Statutes, Chapter 111-1/2 §73.102

association or corporation may act as a trustee without first securing from the Auditor of Public Accounts a license to so act. Any license issued pursuant to an application is valid only at the address stated in the application for such applicant or at such new address as may be approved by the auditor. In addition, the applicant must submit a detailed statement of his assets and liabilities and a fidelity bond in such amount as the Auditor may require.[18] The amount or amounts deposited, in trust, with interest thereon, if any, cannot be withdrawn until the death of the person or persons for whose funeral or burial such funds were paid, unless they have already been withdrawn and repaid to the person who originally paid the money under or in connection with said agreement.[19] It should be noted that it is unlawful for any agreement or agreements to provide for forfeiture and retention of payments upon said agreement or agreements as and for liquidated damages for default therein in excess of 25% of the payments made or $35.00, whichever sum is the larger.[20] The only reimbursement that the trustee and

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[18] Illinois Revised Statutes, Chapter 111-1/2, §73.103

[19] Illinois Revised Statutes, Chapter 111-1/2, §73.104

[20] Illinois Revised Statutes, Chapter 111-1/2, §73.106

trustee's depository may receive from such funds that are deposited pursuant to such agreements are the reasonable expenses and the custody and administration of such funds and the usual and reasonable compensation for the services as such trustee and trustee's depository, provided that the combined expenses and compensation shall not exceed 5% of the principal fund and 5% of the earnings of the fund so deposited under each of the agreements or series of agreements.[21]

The Illinois Burial or Funeral Trust Fund Act has been upheld by the Supreme Court of Illinois as a legitimate exercise of the police power of the state.[22] In the Smith case, the court stated:

> "There can be no doubt that the act relates to a proper subject for the exercise of the police power. The public has a vital interest in the proper disposition of the bodies of its deceased members. Persons engaged in this business have been subjected to rigorous regulations specifying the

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[21] Illinois Revised Statutes, Chapter 111-1/2, §73.105

[22] Memorial Gardens v. Smith, 16 Ill.2d 116 (1959)

> place and manner in which their activities may be conducted in prescribing such activities without license or permit. This has been done not only out of proper respect for the dead, but in the interest of public health."

Other states are in accord with Illinois that statutes requiring that funds received pursuant to a sale of a pre-arranged funeral service be deposited in trust are a valid exercise of the state's police power.[23]

In the Smith case, the court further stated at page 124:

> There is nothing unique in requiring one who contracts for performance in futuro to give security for that performance
>
> * * *
>
> The contracts here involved are analagous to a form or insurance. By payments made during life, the purchasers seek to insure their burial. The net effect is the same as though a life insurance contract were purchased to provide a sufficient sum payable at death to accomplish that result.
>
> * * *
>
> Practically, plaintiffs (sellers) will no longer be able to collect prospective profits in advance without furnishing an adequate guarantee for performance.

like insurance

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[23] Reserve Valut Company v. Jones, 234 Ark. 10, 11 (1962); Faulkner v. Memorial Gardens Association, 293 SW 2d 934 (Tex. 1967); Messerli v. Monarch Memorial Gardens, 88 Idaho 88 (1964); State ex rel Landerholm v. Anderson,

Accordingly, any one who sells a pre-arranged funeral service or merchandise in connection therewith, subject to the provisions of Chapter 111-1/2, §73.101, is subject to the Illinois Burial Funeral Trust Fund Act if he elects to collect funds pursuant thereto in advance of actual need. The state has a vital interest in securing that result and, insofar as the rights of sellers are effected, any considerations must yield to the paramount public welfare.[24]

The interest that the various states have taken in promoting the pre-arrangement of funeral services is evidenced in the following section declaring the legislative intent of Florida:[25]

> It is the legislative intent that the provisions of this chapter shall be construed as a limitation upon the manner in which a licensed funeral director holding a license to operate a funeral establishment . . . is permitted to accept funds in pre-payment of funeral services to be performed in the future to the end that at all times members of the public may have an opportunity to arrange and pay for funerals for themselves and their families in advance of

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[24] Memorial Gardens v. Smith, supra

[25] Florida Statutes, Section 639.19

need while at the same time providing all possible safeguards whereunder such pre-paid funds cannot be dissipitated, whether intentionally or not so as to be available for the payment of funeral services arranged for. Further, it is the legislative intent that no person may offer, sell or negotiate for sale of a pre-need funeral service contract through anyone who is not licensed to make funeral arrangements or plan details of funeral services in accordance with the provisions of Chapter 470, Florida Statutes, as well as the provisions of this chapter . . ."

Accordingly, in connection with the sale of the pre-arranged funeral, the singular protection to be afforded the public is the guarantee that funds deposited pursuant to such contract will be available at the time of need. This is the one and only legitimate interest that a state has in regulating the selling of the pre-need service. In order to make the advantages of a pre-arranged funeral available to the public at large, it is likewise in the interest of the state to allow the profession to solicit the public to arrange for their funeral on a pre-need basis.

As we have seen, the abuse that the states have sought to remedy by enumerating solicitation as a ground for revocation or suspension of a funeral director's license is

based on the undue advantage that a funeral director has on those bereaved at the time of death. However, any such extention of the meaning of "solicitation" to include the pre-need situation cannot be justified as a legitimate exercise of the police power of the state as it neither bears a relation to the standards or ethics of the profession of funeral directing nor a substantial relation to the welfare of the public.

The very definition of "solicitation" is further evidence that its usual and customary meaning does not connote an application to the pre-need situation. Black's Law Dictionary defines "solicitation" as "an urgent request "enticing" and adds that it is often used with phrases as "solicitation to bribery."[26]

Furthermore, the language used in many of the statutes enumerating the employment of "cappers" or "steerers" by funeral directors as a ground for revocation admittedly has no application to the pre-need situation.[27]

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[26] 4th Edition, page 1564

[27] Cedar Memorial Park v. Personnel Associates, Inc., 178 NW 2d 343 (Iowa 1970)

Black's Law Dictionary, Revised 4th Edition defines "capper" as a "decoy or lure for purpose of swindling" and "steerer" as "one who gains the confidence of the person intended to be fleeced and who may be said to steer or lead a victim to the place where the latter is to be robbed or swindled." While this definition may apply to the zealous funeral director employing persons in hospitals or institutions to channel business to said funeral director, it obviously does not apply to the pre-need situation.

As noted above, 35 of the 50 states of the union have seen fit to adequately protect the rights of the public by enacting statutes whereby funds received pursuant to the sale of a pre-arranged funeral service are deposited in trust to insure guarantee of the funds at the time of need. Any further prohibition on the rights of a funeral director or his agents to solicit said funeral pre-arrangements is clearly outside the scope of the police power. There is nothing to indicate any danger to the public health in permitting a person, whether a licensed funeral director or unlicensed, to solicit the public to pre-arrange their own funeral. The care of dead human bodies and their

disposition by burial or otherwise is admittedly so closely related to the health and general welfare of a community that the business of caring for and disposing of such bodies is to be regulated by license and special regulations under the general police power of the state.

The danger that may arise from the body of a person who has died from infectious, contagious and communicable disease or otherwise is to some extent obviated by the sanitary regulations of local Board of Health; but regulations relating to the transportation of dead bodies, permits for burials in locality where the person has died, and a compilation of vital statistics are quite inadequate to protect the health and general welfare of the community unless the person who comes into immediate contact with the dead body, and upon whose care and skill the public are principally dependent in preventing the spread of infection or contagion and protecting the health, good order and general welfare of a community, is selected with special reference to his skill, knowledge, and experience. The opportunity which undertakers frequently have to aid in covering up or uncovering the

evidences of crime also constitutes a reason why they should be selected with reference to their character and integrity.[28]

A statute passed pursuant to this police power, however, must be reasonable. Its real purpose must be to protect the public health, morals, or general welfare. A statute or ordinance may not under the guise of the police power, impose arbitrary or unreasonable restrictions upon the use of private property or the pursuit of useful activities.[29] In order to be valid, the statute must bear some real or substantial relation to the public health, safety, morals or general welfare of the area affected.[30]

Dual purpose statute regulating pre-need Not restraint of trade

There is no question that a pre-arranged funeral by which a person while still alive specifies the mode and cost of his final disposition is much less expensive than those arranged by sorrowing survivors. However, it seems that some funeral directors themselves are intent in

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28 See People v. Ringe, 197 N.Y. 143 (1910)

29 Carter v. City of Bluefield, 132 W. Va. 881 (1949); Lawton v. Steele, 152 U.S. 133 (1928); Anderson v. Jester, 266 Iowa 452 (1935); Merrill v. City of Wheaton, 356 Ill 457 (1935).

30 Forbes v. Hubbard, 343 Ill 166 (1932); People v. Weiner, 271 Ill 74 (1915).

perpetuating the expense and burden to the family of arranging funerals on an at-need basis only. Howard C. Raether took note of this fact at a National Funeral Directors Association Convention some years back. In discussing an analysis of funeral sales, he said:

> "If it were possible to tabulate all the pre-arranged funeral services on record, how do you suppose the average of all of them would compare with the average adult figure shown here? (Average adult figure means average price on adult's funeral). Are you ready, willing and able to become part of a program that is going to lower the quality of the average funeral service selected to the point that you will find it difficult if not impossible to stay in business rendering the service you now give? He added, it is good for those who survive to have the right and duty to make the funeral arrangements. Making such arrangements, having such responsibilities, is essential. It is part of the grief syndrome. Part of the therapy of mourning. It is the positive hook upon which the hat of the funeral service is hung. Why should we tear it down by saying that funerals for the deceased, therefore he or she should make the arrangements? . . . If funeral directors insist on soliciting pre-need funerals, they are, in fact, pre-arranging the funeral of their own profession." [31]

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[31] Mitford, The American Way of Death, p. 91 (1963).

In connection with the above statement, a study ade for the National Funeral Directors Association, a arge number of people were asked about their need as they aw it when they went to a mortician immediately after a eath had occurred. 99% of those interviewed responded hat they were "at a loss as to what steps to take".[32] his is the key to the problem of the undertakers advantage ver his clients. It is not a high degree of skill on his art, not is it a lack of competence on the part of the members f the bereaved family, it is merely that they, through the ailure of common knowledge and customer experience, do not know what to do.

The public has finally become aware that there is a reasonable alternative to the expensive funeral in pre-need planning. In response to their own tragic experiences and public comment various groups have been formed to bring modesty and simplicity back to the funeral and funeral service.[33]

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[32] National Funeral Directors Association, "Analysis of Attitudes Toward Funeral Directors" 1948, as reported in Bowmen, The American Funeral p. 41, 1959.

[33] Ruth Harmer in her book The High Cost of Dying, 1963 stated: "Most persons, however frugally they may have lived, are dying beyond their means."

The ideal of obtaining lower prices through fe-need planning has been adopted by large numbers of nsumer groups throughout the country. Typical of the ooperative socities that have arisen, mainly in the orthwest Central area of the country, is that of the leveland Memorial Society which was established in 1948. lans have been worked out by societies such as this to nable members of the society and their families to obtain imple services at a modest cost from funeral directors in he area.

The Cleveland plan, based on that of the Minnesota Cooperative Plan, has been widely followed. One member of the family joins the society and pays the family membership fee of $10.00. There are no annual dues. The members and each person in the family fill out cards indicating which funeral director they prefer, whether memorial services are desired, and the type of funeral service they wish. The Type I Service provides that a funeral establishment will transport the body without embalming to a crematory for cremation. Total cost is not to exceed $200.00.[34] The

[34] Based on 1963 figures

Type II service includes transportation to a funeral home, embalming the body, if necessary, placing it in a modest coffin selected by the funeral director and private burial before the memorial service. The cost of that is not to exceed $300.00. The cards are then filed with the funeral director, ready for use when needed. No negotiation is required about price, and payment is made when the services are rendered.[35] One member of a Bay area cooperative group in Berkeley, California reported in 1963 that eight months before he joined the cooperative association, he arranged for the burial of his mother through a mortuary. A few months after joining, he had to arrange for the burial of his father. Services for the former, he said, were inferior to the services he received through the association, and the cost had been $800.00 in contrast to the $150.00 cost for his father's funeral.[36]

What legitimate interest could any state possibly have in threatening to revoke the license of a funeral

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[35] The High Cost of Dying, Harmer, page 192-193 (1963).

[36] Ibid, page 27.

director for soliciting contracts which reduce the cost of burial and maintain equality in the negotiation process? What legitimate interest does the state have in revoking the license of a funeral director employing people to solicit the public to arrange for their own funerals on a pre-need basis? There is seemingly no legitimate ground by which revocation may be justified in either of these instances. In the first place, by refusing to allow funeral directors the opportunity to offer pre-need contracts, the state is depriving a large segment of the population of one realistic alternative to the "at need" bonanza now being enjoyed by some funeral directors.

The very vagueness of the revocation section of the statutes of the various states has prevented funeral directors or those acting on their behalf from engaging in the solicitation of the pre-need service. A statute which includes "unprofessional conduct" as a ground for revocation and includes in the definition of "unprofessional conduct" the solicitation of funeral business by a licensee "whether such solicitation occurs before or after death" must be stricken as an unreasonable limitation on the funeral director's

right to maintain his business. It is common knowledge that the "before death" or "while death is impending" or "while death is imminent" language contained in these revocation sections refers to that period immediately prior to the demise of a person. By no stretch of the imagination can the term "before death" be extended to include that time when a person is at the peak of his health and is being solicited by a funeral director for a rational discussion as to the final care and disposition of his body. Various states have decided that those unlicensed to practice funeral directing or embalming may solicit pre-need funeral arrangements. There is no reason why a funeral director, who is the most qualified to discuss such plans with the prospective purchaser should not also be so allowed. [37]

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[37] Utah Funeral Directors and Embalmers Association v. Memorial Gardens of the Valley, Inc., 17 Utah 2d 227 (1965); Boydston v. State of Oklahoma, 277 Pacific 2d 138 (Oklahoma, 1954)

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

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A UNIT IN THE ORIGINAL FILE.

Alaska State Legislature

House

JUNEAU ALASKA

This is to inform you that on February 6, 1976 the House and Senate Commerce Committees will be meeting in joint session to consider House Bills 264, 271, and 509, dealing with the practice of mortuary science.

As this legislation is considered a fundamental reorganization of the regulation of mortuary science within Alaska, we are endeavoring to obtain broad comment on the possible effects of the proposed law.

If you cannot present oral testimony at the hearing, the committees will accept written comments for their consideration.

The exact time and place of the hearing will be announced on Monday, February 2, 1976.

Sincerely,

R. F. Bradley

Representative Bob Bradley, Chairman
House Commerce Committee

Ed Willis

Senator Ed Willis, Chairman
Senate Commerce Sub-Committee
on Mortuary Science

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AGENDA

JOINT COMMERCE COMMITTEE'S HEARING ON MORTUARY SCIENCE FEBRUARY 6, 1976

8:00 a.m. - Introduction-and opening by Representative Bob Bradley

8:10 a.m. - Summary of pending legislation by Bill Berrier

8:30 a.m. - Testimony from the public in the following order:

1. Individuals from out-of-town, as called by the Chair

2. All remaining individuals, as called by the Chair

(All questions of persons giving testimony will come from the Joint Committees.
Any questions from the floor will be in writing and will be submitted to the Joint Committee Chairman for response)

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH V, STATE CAPITOL
JUNEAU, ALASKA 99811
465-3800

January 16, 1976

Senator Genie Chance
Capital Building
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Re: Final Report of the Interim Committee on Mortuary Science

Dear Senator Chance:

The assignment of the Interim Committee on Mortuary Science was to refine the occupational licensing bill (HB 509) and after consideration if the need for an occupational licensing statute appeared, to prepare a committee substitute. The committee met on September 27, December 2, and December 19. Prior to these meetings a suggested revision was prepared and distributed to all the persons currently licensed to practice embalming in this state and to other interested groups. Notices of the workshop meetings were sent to each of these groups. There was substantial attendance from the profession at each of the first two meetings.

As a result of these, a proposed committee substitute for HB 509 has been prepared and a copy of the bill is attached.

Essentially the bill adopts a dual licensing system; that is, licenses are issued separately for the practice of funeral directing and for the practice of embalming. The administration of the occupational licensing was put in the Department of Commerce. The committee's feelings were that an occupational licensing board would not be a good solution and that the Department of Commerce was a logical alternative.

The proposed substitute also sets substantial educational qualifications as a prerequisite to licensing. Under existing law, no qualifications exist. For this reason a "grandfather" provision was inserted which allows persons who are currently licensed as an embalmer to obtain a license as an embalmer under the new act and a person who has actively practiced as a funeral director to obtain a license as a funeral director under the new act without requiring that the newly imposed qualifications be met.

A substantial area covered in the act was a regulation of pre-need sales. The primary thing this regulation does is require that funds received from pre-need sales be deposited in an account in the name of the purchaser and that both the principal and interest in this account remain the property of the purchaser until time of need.

Since pre-need sales are made by other than professionals, and since an enforcement mechanism is essential, this section was made part of the consumer protection statute.

In addition, the bill contains a disclosure of cost section which requires that in broad catagories the cost of the services be disclosed to the purchaser. The bill was prepared as a proposed committee substitute for Commerce Committee since the bill was currently lodged in Commerce Committee. The committee strongly recommends that both House and Senate Commerce Committees, preferably jointly, hold other hearings on this bill. During the hearing the committee indicated to the interested parties that if such a hearing were held, notice would be given to these parties.

Very truly yours,

Edward C. Willis
Chairman

ECW:bh

Attachment

SUCCESSFUL FUNERAL SERVICE PRACTICE

Edited by HOWARD C. RAETHER
Executive Secretary
National Funeral Directors Association

PRENTICE-HALL, INC. Englewood Cliffs, N. J.

ABOUT THE EDITOR

Howard C. Raether holds a Ph.B. and J.D. from Marquette University in Milwaukee, Wisconsin. He has been involved in funeral service for thirty years and Executive Secretary of the National Funeral Directors Association since 1948. He was consultant to the United States Government Department of Transportation, National Highway Safety Bureau, and is on a committee serving the Department of Health, Education and Welfare. He was given the highest honor the U.S. Army makes to a civilian—the Distinguished Civilian Service Award. He also is a member of the National Council on Tissue Transplantation and Utilization. He is editor of the NFDA monthly journal, *The Director,* and creator of the *Reference Manual* for funeral directors. In addition his recent writings include, as co-author, *A Compendium of Basic Information on Funeral Establishments and Funeral Establishment Employees and The Fair Labor Standards Act, as Amended* (1968); *Organ and Tissue Transplantation and Body Donation* (1970); and *Personnel Guidance Manual for Funeral Service Practice* (1970).

12

THE PREARRANGING AND PREFINANCING OF FUNERALS

Thomas H. Clark
and
Howard C. Raether

A Brief Background

In the chapter "The Law and a Funeral Service Practice" reference is made to changes in the law to permit an individual during his lifetime to take steps to get the kind of funeral he desires and to determine the method and place of final disposition of his body.

There have been developments toward this new concept for many years, but it has been only since the end of World War II that a significant impact of the move was felt. It was not until 1952 that the National Funeral Directors Association felt the situation warranted a policy statement which concluded with the recommendation which has led to laws controlling and regulating prefinanced funeral contracts being enacted in a large majority of the states.

The Sociology of Life and Death

The funerals for most people are selected at the time of death. Unless one knows when, where and under what circumstances he is going to die, it is difficult for him to prearrange his own funeral, either alone or with a member of his family, and feel that it will be as planned.

There are few people who are sure things won't change sufficiently to upset prearranged plans. And in cases when they are changed and are different, problems are often created instead of being solved.

A national study showed that in 1967 less *than 1%* of all funerals conducted, except in the Pacific and Mountain regions, were prearranged. It also revealed that *from 25% to 33%* (depending on the region) of the funerals conducted in 1967 that were prearranged were changed by the survivors. However, *about 50%* of funeral directors said at that time that prearrangements were on the increase.

Why?

There are those who feel, as is pointed out elsewhere herein, that our society is changing from a family culture to a generation culture. Families are being separated by age, by distance, by knowledge and by philosophy.

Sometimes an elder member, especially if living alone, wants to make sure he or she gets the kind of funeral he desires. Often a surviving spouse will make arrangements for the same kind of funeral that was just conducted for the husband or wife.

Sometimes differences in a family are such that segments thereof feel they have to protect themselves against each other as to funeral arrangements and costs.

Sometimes cost is the primary reason for the prearrangement and prefinancing. There are those who want a moderate to expensive service and who want to be sure they get it. Often prearranging is done in an attempt to keep costs down, to indicate to the family or other survivors that they should not go "overboard" in the prearranger's opinion.

Finally, there are those who prearrange and prefinance their own funeral because they want a specific type of service involving a particular church and/or clergyman and/or funeral director and/or any one of many other reasons trivial to some but important to the person doing the prearranging.

Prearrangements are a part of just about every funeral director's files and practice. They must be recognized as an aspect of present-day funeral service, and important facets of the overall picture must be understood.

Psychological Aspects

Some who have studied death, grief and bereavement say that following death there is a therapy in doing things and in having responsibilities. When most of the details of a funeral have been worked out and perhaps paid for by the deceased, this could leave the survivors with little to do in the actual at-need planning and decision making.

Equally important, survivors and the community may want to do some last thing or things in honor and/or respect and/or in recognition of the deceased. There may be the feeling this shouldn't or can't be done when the person has made his own arrangements. Or, there may be some things that the deceased has arranged which might affect the sensibilities of a survivor, or survivors, and bother them for years, but they won't suggest a change lest they "offend" the departed and his memory.

The Promotions of the Fifties

The idea of the prearranged or prefinanced funeral was not first conceived in the early fifties, but it was then that it became the basis for promotions to sell the idea of prearranging and prefinancing funerals.

Some of these promotions were built around package deals covering the funeral

service, funeral merchandise, flowers, burial vault, cemetery lot, opening and closing of the grave, and the grave marker.

Sales crews were trained and often blanketed an area pushing door bells and at times offering an item of merchandise free to get into the door to make their presentation.

In this presentation the alleged high cost of dying, peace of mind, and a special purchase price of the prearranged service and merchandise were usually stressed.

These developments led to two separate actions which although not related complemented each other.

The Association of Better Business Bureaus, now the Council of Better Business Bureaus, came out with three publications on the subject in seven years. In the same period many states enacted laws to control the prearranging and prefinancing of funerals.

The ABBBI publications are:

1. *Facts Every Family Should Know About Funerals and Interments.* Some paragraphs were devoted to package deals therein.
2. *Questions You Should Ask About Cemetery Lot Promotions.* Since many promotions—pre-need and otherwise—were cemetery initiated, this leaflet was prepared.
3. *Facts You Should Know. . .Questions You Should Ask. . .The Prearrangement and Prefinancing of Funerals.*

All three of these publications are kept current and their widespread distribution continues.

Because the last-mentioned booklet is pertinent to this chapter, the following excerpts from it are quoted:

> In recent years a growing number of individuals, firms and groups have sought to stimulate public interest in prearranged, prefinanced funeral plans. Among them have been sales organizations and promoters outside the funeral profession who seek to interpose themselves as third parties in the traditional personal and confidential relationship between the funeral director and the survivors of the deceased. Grievous disappointments and severe financial losses have resulted from some unsound promotional schemes foisted on a credulous public by armies of high-pressure salesmen.
>
> * * *
>
> Sometimes, belief that a funeral has been fully prearranged and paid for can create a false sense of security for survivors.
>
> * * *
>
> The simplest way to prearrange a funeral is to leave written instructions for those who will make the arrangements. If advance payments are involved under a contract which does not permit the individual to alter the prearrangements to meet changing circumstances, the possibilities. . .can lead to serious problems. What assurance do you have that the funds deposited will be intact when the time for their disbursement arrives or that they will be available to you if you want them? Who will receive the interest on your money during the many years which may intervene between the date of deposit and the date of death? Will such interest revert to you? Will you be better off by depositing the money in your own bank where you will get the benefit of all interest earned? You also are free to withdraw your funds in an emergency.
>
> * * *

> Savings claims and promises of "bargain" rates are stressed in selling many of these promotional plans. Weigh carefully any representation that a "plan" will give you adequate services for less than you can obtain them from other funeral directors against the fact that the sales commissions and costs must be added to the cost of the funeral under the plan.

The material in these excerpts pinpoints the problem for many of the public.

The State Pre-Need Trust Laws

The questions which the Association of Better Business Bureaus was asking in its booklet on prefinanced funerals were often asked across the country during the fifties and sixties as many states considered legislation to regulate and control the contracts as to such funerals. The chart which is Appendix X gives the names of all the states within the continental limits of the United States. It shows the majority of them with a statute which in some way regulates these contracts. It also gives the basics of each state's statute.

The breakdown of state laws and/or opinions shows, as the Better Business Bureaus point out, that most of these statutes require that all money, or a major share of all monies, paid in advance for funeral merchandise or services, and accruing interest thereon, must be deposited in trust with an approved financial institution until the need for disbursement arises. In most of these states monies paid in advance for burial vaults must also be entrusted and there have been opinions of attorney generals and of state supreme courts upholding this requirement. In some states amounts paid for markers and mausoleum space sold in advance of death must also be placed in trust.

A West Virginia statute was held to be unconstitutional and a new law passed since. The constitutionality of the Arkansas, Idaho, Iowa, Illinois, Kansas, Utah and Texas statutes has been upheld by the supreme courts of those states.

Some promoting prefinanced funerals object to putting in trust or reserve 100% of monies paid in advance for funeral merchandise and services. In the Illinois case one of the suggestions made was that a lesser amount be deposited. The supreme court of the state in its decision points out that the plaintiff cemetery entered the "prearrangement business by choice" and that its procedures invite "regulation of a stringent nature." The matter was appealed to the Supreme Court of the United States which refused to consider the case.

Some Present-day Thoughts About Prearranged and Prefinanced Funerals

In the previously referred to Illinois decision the supreme court of that state said:

> In the long interval between full receipt of the purchase price and contract performance the opportunities for fraud are great and risk of insolvency, with consequent inability to perform, apparent.

It is doubtful whether anyone has or will doubt the validity of this statement. And in many areas there has been a slackening of pre-need promotion activity. The economics of the situation has much to do with this for reasons funeral directors know.

The Plan with the Special Price

ABBBI queries a $795 funeral being sold in advance for $595. In its brochure an arrangement is cited "between one sales organization and 'participating' funeral homes (in which) the latter are required to represent that a designated funeral, available to customers of the 'plan' at the 'reduced price' of $595, is 'regularly' priced at $795. The actual price to the company selling the plan is only $420."

The BBB asks, "Do you believe that a funeral home can afford to sell services and merchandise honestly priced at $795 for little more than half that amount and still make a profit?"

Supposing that there was no sales organization, could a funeral home with a plan of providing a $795 service for $595 come out ahead with that amount?

If this is in a state where the interest on the monies paid in advance cannot accrue to the benefit of the funeral firm, the amount paid will not increase. Even in those states where the interest can accrue, as earned, to the benefit of the funeral firm, unless the entire amount, or a sizable portion of it, is held for a long period of time, the increment is not large enough to close the gap between the "before-need" and "at-need" figures if both are realistic.

Another factor of importance is the annual increased cost of providing the service. This is especially true if the components of the funeral and a particular casket are spelled out. Few things have gone down in price or remained stable in a number of years. Therefore every cost increase decreases the actual amount available for the funeral.

Finally, if the pre-need contract was solicited by a salesman, it is estimated that 15 to 30% of the total contract price will be used to absorb sales and administration costs.

Income for Federal Tax Purposes

When a funeral is prefinanced, if the firm to whom that money is paid has constructive, permissive or actual use of the money, the money is taxable as income by the federal government for the year in which the money was received. This is true whether the amount is a partial payment or the entire prepaid price of the service.

What to Do

This chapter shows that many states have enacted laws controlling and/or regulating the contracts made in advance of need for funeral services and/or merchandise. This coupled with significant variations in the pre-need laws and the divergent opinions which exist among funeral directors warrants the following recommendations:

1. Pre-need contracts and their solication *are* fraught with the danger of fraud and funeral directors should avoid any contract or plan which could harm their clientele or their service or place in the community.

2. Those who wish to prearrange their own funeral or one for someone for whom they have responsibility should be able to do so.
3. When a funeral is prearranged and monies are paid in advance of need for funeral services and/or merchandise including burial vaults, *all* such monies should be deposited in a trust fund with the person or persons prearranging having the control thereof to be entitled to the earnings therefrom. Furthermore such prearranger shall have the right to terminate the contract at any time without forfeiture of any of the funds which have been paid or earnings accrued.
4. Where a contract is entered into it should be in accordance with the laws of the state in which the prearrangement is made. Some state funeral directors associations have prepared contract forms. If there is no pre-need law and/or if no form is available—the suggested wording for one is at the conclusion of this chapter. In all such contracts the funeral director should bind himself only to the kind of funeral and merchandise which will be available at the time of need for the face amount of the contract.
5. Funeral directors should carefully consider the potential negative effects and cost of allowing a third party to step between themselves and their firm and the family through the representations of a third party soliciting a pre-need program or plan which will be serviced by the funeral home when the person for whom the service was prearranged dies.
6. No funeral business should be purchased which has the liability of providing funerals which have been prefinanced in whole or in part until the purchaser of the business is sure the monies paid in advance are on hand for the funerals which will have to be provided.

It is not the intent of the writers of this chapter to discourage individuals and families from discussing funerals and perhaps making tentative plans for a funeral or funerals. This is encouraged especially when there is a family or close friends and they share in the discussion. Death is not as commonplace as it once was. Millions of people in the country today have never experienced a death and funeral of someone close to them. They don't know what is involved and they should.

There is a big difference between tentative arrangements considering survivors and formal agreements which might disregard and adversely affect the sensibilities of those who will mourn.

Where there is no family or its members are disinterested or feel specific prearrangement is good, a formal agreement in line with the following contract suggestion will not only be proper but may also be helpful.

* * *

THIS AGREEMENT made and entered into this____day of_____ 19____,by and between_____,party of the first part, hereinafter sometimes referred to as "Funeral Director," and_____,party of the second part, sometimes hereinafter referred to as "Buyer."

WITNESSETH:

WHEREAS, party of the second part desires and hereby requests to enter into a contract to pro-

vide for payment for funeral merchandise and/or services in advance of death, which merchandise and /or services are to be delivered and performed subsequent to the death of _____ _____, herinafter referred to as Beneficiary as follows:

Professional services and casket

_____

_____

_____

NOW, THEREFORE, in consideration of the mutual promises, it is hereby agreed as follows:

1. Funeral Director will supply to Beneficiary out of the funds deposited by Buyer the services and/or merchandise as set forth above for the sum of $_____, payable as follows:

_____

_____

_____

2. Said funds as aforesaid shall be placed with _____ hereinafter sometimes referred to as "Trustee" within ten days after receipt thereof. In the event, upon the death of Beneficiary, said funds are inadequate to provide for the services above described, then the funds shall be used by the Funeral Director to provide professional services and/or merchandise of a type as nearly similar as may be purchased with said funds at the time of Beneficiary's death.

3. Upon the death of Beneficiary, the said funds shall be released by the Trustee forthwith to the Funeral Director upon receipt of a certified copy of certificate of death or other evidence of death satisfactory to said Trustee and where required by State Law, an affidavit by the Funeral Director that the funeral services and/or merchandise which has been contracted for have been so provided and that the cost was not less than the amount on deposit. Any amount on deposit not required to pay for funeral services and/or funeral merchandise shall be returned on request to the Buyer if living, or if not living to the estate of the beneficiary.

4. Said funds shall remain on deposit with the Trustee and shall remain intact as a fund until the death of the Beneficiary, or until withdrawal by Buyer as hereinafter provided; and said funds may be withdrawn only for the full amount thereof and not in part, and said withdrawals must comply with the rules and regulations of said Trustee; provided, however, that the Buyer may, at any time upon complying with the rules and regulations of the Trustee, withdraw the funds deposited to date with the Trustee pursuant to this contract. In the event of withdrawal the Buyer shall notify the Funeral Director within twenty-four hours prior to such withdrawal, and in the event the withdrawal is completed, the Funeral Director shall be relieved from any of the obligations contained in this agreement.

5. It is mutually agreed that the said Trustee is only the repository of said funds and is not liable for the fulfillment of the contract by the Funeral Director, and upon payment over to said Funeral Director of the said funds, or repayment to Buyer, the Trustee's liability shall terminate.

6. Interest earnings which may accrue on said funeral fund shall be added to and become part of said fund.

7. Upon the death of Buyer, in the event the said funds shall exceed the amount required to provide services set forth above, any surplus shall be paid over to Beneficiary's estate (or) to _____, by the Funeral Director.

8. This Agreement shall be binding upon the heirs, administrators, executors and assigns of the parties hereto.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first above written.

2

THE WHOLE-MAN TOTAL-FUNERAL CONCEPT

Howard C. Raether
and
Robert C. Slater

Example: John J. Jones dies of a disfiguring malignancy. He is survived by his widow, one son, two daughters, one daughter-in-law, one son-in-law and two grandchildren. At the time of his death his married daughter is less than a month from having her first child. His unmarried daughter is engaged. Her fiance is in the army on duty within the country.

During the first contact with the son who is handling arrangements tentatively awaiting final plans for the funeral, four areas of concern of the family become apparent. They are:

1. Will restoration of the father's face be such that viewing will be possible?
2. The pregnant daughter was her father's favorite. How will she hold up? To what extent should she participate in the arrangements and during the various periods of the funeral.
3. What about the son-in-law to be? Might he get an emergency leave to be at the funeral? He could be a real comfort to his future bride.
4. The two grandchildren are ages 7 years and 10 months. The boy, 7, the first grandchild of the deceased, loved his "Bompa" very much. Should he be allowed at the funeral home? Should he see the casketed body of his grandfather? Should he go to the service?

This hypothetical situation could well be a real one. It could be more complex or consist of only one or two "concern areas." It is spelled out not to present some problems and the solutions to them. Rather it is outlined to introduce what happens

daily in funeral homes and two ways of considering what the funeral home owner(s) and other licensees should know and do in this situation.

Two Schools of Thought

There are two basic schools of thought regarding the serving of families and the role of funeral service licensees and the education necessary for them to fulfill their tasks. One is known as the whole-man-total-funeral concept. The other is the owner-manager-technician concept. A statement on how two funeral homes, one using the whole-man concept and the other the owner-manager-technician concept, might serve this family is essential to any present-day appraisal of funeral service practices.

Before spelling out this appraisal it should be made clear that this is not a discussion of the philosophies of funeral homes with a sizable number of funerals annually and those with a small volume. There are large firms with the whole-man-total-funeral concept. There are small firms with the owner-manager-technician philosophy, firms which use service companies to do some of the things involving personal contact even when the funeral-director-owner or an associate is available.

The Whole-Man–Total-Funeral Concept

In a funeral home where the whole-man-total-funeral concept prevails, after the receipt of the call on the death of John Jones the funeral-director-owner and/or manager or one of his staff would have the responsibility to follow through with the family. This licensee would provide the person-to-person professional service outlined in another chapter. He would tell of the advantages of viewing the deceased and if he did not do the restorative work to make the viewing possible, he would check on it periodically.

The person "waiting on" this family would alert the others on the staff to the condition of the pregnant daughter. Throughout the arrangements and period of the funeral he would watch for signs that would indicate the mother-to-be ought to be momentarily removed from the central scene. If need be, he might suggest calling her doctor

This funeral director also could suggest contacting the Red Cross, or he might do it himself if the fiance asks for emergency leave and can't get it. He might also talk to the clergyman to see if he feels it important enough to call the chaplain for the fiance's army unit about the leave.

He undoubtedly would counsel with the family about the grandson's viewing the body and his part in the funeral, if any. There again he would talk to the clergyman and if the youngster knows the cleric well, he might be one of the two or three with the boy as he goes to see his "Bompa."

The whole-man-total-funeral concept makes one person licensed to practice funeral service responsible to a family to try to meet all their needs in relation to the total funeral. While there undoubtedly will be some delegation of duty and authority, the person "waiting on" the family is responsible for the funeral of the one they loved. And if the funeral home owner is not the one, he will at some time or times check with the licensee responsible and the family to see how things are coming.

The Owner-Manager-Technician Concept

When the original death call is received by a funeral home administered under the owner-manager-technician concept there are variations in what might happen depending on the size and practices of the firm. But unlike the previously described concept, the same licensee will not be involved in all facets of the funeral. Rather there will be one or more persons with specialized knowledges or skills who will perform their tasks and having done so their responsibility for that "service" ends. For instance, at the time of the removal a family may ask about several matters pertaining to funeral arrangements which the specialized technician may not be able to answer, necessitating a referral to another staff person.

In some funeral homes with this concept there are persons who do the arranging, there are others who are with the family for the casket selection, there are those who only embalm, and there might be some who just direct the actual funeral service.

Most times these individual functionaries report to a central office or person. Sometimes that person is not a funeral service licensee. What complicates the situation is that anyone of these individuals will find he must act alone sometimes without support from anyone else.

Following the death of John Jones the areas of concern might become apparent to those associated with the funeral home with the owner-manager-technician concept. But those who argue for the whole-man concept--as the authors of this chapter do—say that the chances are less that they will for two reasons. First, the departmentalized or specialized services of the funeral home bring no single staff member in constant communication with the family so as to allow them a total picture of what is happening and what is needed. Second, because the family sees and makes various arrangements with two or three people, they are less likely to get sufficiently close to one of them to make some requests they might have, or to "unload" some of their feelings.

Rabbi Dr. Earl A. Grollman, who is a well-known pastoral psychologist, paraphrased an article for clergymen in the following manner: "The word *cure* has its root in a word that originally meant *care*. The funeral director is someone who cares about, who takes care, and who takes care of. He is called upon to cure, to encourage as well as to console, to overcome soul-wounds. His is part of a meaningful care-taking profession."

This definition fits most funeral service licensees. But its ultimate more often than not is found in those practicing with the whole-man–total-funeral concept.

Licensing—Education—Recruitment

It is estimated that approximately 75% of all persons licensed in funeral service hold a funeral director's *and* an embalmer's license, or a combination of both. There are seven states which do not license funeral directors as such. There are eleven states where there is a single license law covering both funeral directors and embalmers, or where the requirements for funeral directors include embalmer prerequisites.

The whole-man–total-funeral idea is best served when the licensee is educated *and* licensed to do all that is done or might have to be done in a funeral service practice.

The reasoning for this is valid when looking outside of funeral service and when

realistically confronting the facts within funeral service.

It is admitted that there are men and women who prefer the technical aspects of the profession. They like to embalm and do restorative work. It is also true that some licensees seldom prepare a remains because their personal contact and administrative duties keep them fully occupied.

There are physicians who specialize in surgery. There are lawyers who do nothing but tax work. There are dentists whose practice is limited to extracting teeth and pharmacists who are research chemists. But in each of these fields the *general* education and license is that which must first be obtained and the specialization follows.

In funeral service the reasons are as logical and compelling.

It is helpful in the serving of people for all licensees to be fully qualified. As an example, the owner or manager should have the basic knowledge if not the experience to understand an embalming problem and perhaps help solve it, or at least to be able to relate it to someone.

Likewise a licensee specializing in technical functions should be able to fill in in other capacities in the absence of those who do this normally. He should also be able to serve those who may want him as their funeral functionary.

The following chapter deals with personnel practices. But it is pertinent at this point to state that for the funeral to continue with care taking personalized service given by licensed personnel there must continue to be an influx of such personnel to replace those who die, retire, or leave the field.

As long ago as 1957 the Joint Commission on Mortuary Education said in its report that the concept of the person licensed to practice funeral service must reintegrate the embalming with the funeral directing function. Also the role of the licensee must be expanded to include services which have a therapeutic and mental health value performed for the living.

The Commission was formed in April 1956 "to examine the bundle of tasks that have been socially and legally assigned as the occupational province of present-day American funeral service personnel with a view to determining the educational experiences, both preparatory and in-service, needed for their efficient and satisfactory performance."

The conclusion previously stated was predicated on the finding that embalmers were faced with an occupational dilemma—with ambiguous status. The reasons for this were summarized in the following manner:

1. Embalming in the minds of funeral service personnel is associated with the "back room" of the funeral home.
2. Dealing with the clientele "out front" is valued by funeral service staffs.
3. While not all who are primarily embalmers are discontented, those who are are critical in a manner symptomatic of frustrated career aspirations.
4. Funeral directing only in the dual license sense (funeral director and embalmer) means management, personal contacts and funeral direction. Paradoxically in many states this requires the least formal education and training.
5. Embalmers and other technicians have had little success in organizing associations other than unions.

There is one other point that the Commission made more than a decade ago which might be viewed as prophetic. In its analysis the Commission used the phrases "house of management" and "house of labor." It is our opinion that the whole-man–total-funeral concept with the single license will discourage a division of personnel whereas the owner-manager-technician concept will encourage it to the point where there may be a separation of "management" and "labor" in a funeral home.

A funeral home owner must face up to the following facts:

"Back room" men can be obtained, but often they must be paid as much or more salary as are qualified personnel. Also, these men *do* represent the funeral home and the owner(s) for better or worse. However, it is rare that a man who will make a worthwhile staff member can be recruited to be a "back room" man, a "second class citizen." There are times when the owner is away and one or more staff members fill in for him. Or he may be busy. The funeral is just as important to the people served by these staff members as it is to those served by the owner or manager. Irreparable harm can be done by a mistake or mistakes. There is no doing it over. The greater the education of a survivor or survivors the greater the possibility of his expecting good service by an equally or better educated person associated with the funeral home. The more closely a man fits the requirements of the whole-man concept the greater his chances are of meeting the challenge and needs of those of the "new" generation.

Paul R. Keenan, now of the University of Missouri, put it well when he said in his "Education for Tomorrow" :

> If the funeral service practitioner of today and tomorrow is to be successful in his contacts with other members of his community, he will be expected to meet them on an equivalent academic basis. If he does not, not only will he be at some disadvantage, but many opportunities both personal and professional which he might otherwise enjoy will not be available to him.
>
> We must also be aware that the basic fund of knowledge is increasing in this day and age at a rate in which it is doubled every ten years. This has resulted in many changes in sociological and professional practices. In many fields it has resulted in computer storage of information–in others it has established specialties, and sub-specialties within professions and occupational groups. Employment opportunities unknown ten years ago are commonplace today, and this has contributed much to the complex situation in which today's citizen must function and which he hopes to understand.
>
> There is no doubt, unless some unforseen circumstance arises, that knowledge will continue to become available at a constantly accelerating rate, accompanied by a comparable complexity of life; and the person who finds himself unprepared for it will experience some difficulty in keeping abreast of new developments in everyday living. If this is true of citizens attempting to find a place in life which is satisfying to them, it will also be true of the professional who will find the many faces of society constantly changing, and who will have to cope with these changes if he is to survive. It should be remembered that he must operate both as a member of his society and also as a professional person to satisfy special needs of the community in which he elects to function.
>
> Funeral service has been comfortable in the knowledge that it has developed according to specific customs based on the needs of the people, but no one can adequately predict the lines on which it will develop further. It does not, however, require a soothsayer to

predict that funeral service will be subjected to changes because the needs and demands of the public are changing, and will continue to change.

In the almost 100 years of licensing the funeral functionary, there have been three basic steps of progression to meet the *needs and demands of change*, with a fourth now developing fast:

1. The embalmer–public-health concept.
2. The advent of the funeral director license to embrace more than embalming and to place responsibility for actions beyond preparation of the body.
3. The dual license law in most states with most licensees being both funeral directors and embalmers, or holding a combination license.
4. The single license to practice funeral service predicated on the whole-man–total-funeral concept to encompass services essential to the place of the licensee as a "care-taker," or "care-giver," or "gate-keeper" in America in the last third of the twentieth century.

APPENDIX X

Basic Data on State Pre-Need Trust Laws

STATE	PRE-NEED STATUTE	STATE CONTROL AGENCY	PERMIT REQUIRED	AMOUNT OF PAYMENTS PUT IN TRUST	AMOUNT OF INCOME PART OF TRUST	AMOUNT BUYER CAN WITHDRAW
1. ALABAMA	no law					
2. ALASKA	no law					
3. ARIZONA	yes	yes	no	100%	100%	100%
4. ARKANSAS	yes	yes	yes	100%	100%	none
5. CALIFORNIA	Funeral directors only	yes	no	100%	Used to pay expenses and forfeitures	100% of payments
6. COLORADO	yes	yes	yes	85%	Up to 15% of contract	Amount of payments & interest accrued.
7. CONNECTICUT	Insurance law governs	yes	yes			
8. DELAWARE	Participation in such activities considered grounds for suspension of revocation of license.					
9. DISTRICT OF COLUMBIA	no law					
10. FLORIDA	yes	yes	yes (only licensees can arrange)	100%	100%	100%
11. GEORGIA	yes	yes	yes	100%	100%	100%
12. HAWAII	no law					
13. IDAHO	yes	no	no	100%	100%	100% less cost of operating trust
14. ILLINOIS	yes	yes	yes	95%	95%	Amount in trust account less 25% or $35.00 whichever is greater.
15. INDIANA	yes	yes	yes	100% less trustee's expense	100% less trustee's expense	Amount in trust account less 10% or $35.00 whichever is greater
16. IOWA	yes	no	no	80%	100%	Amount in trust account on mutual consent

STATE	PRE-NEED STATUTE	STATE CONTROL AGENCY	PERMIT REQUIRED	AMOUNT OF PAYMENTS PUT IN TRUST	AMOUNT OF INCOME PART OF TRUST	AMOUNT BUYER CAN WITHDRAW
17. KANSAS	yes	no	no	100%	100%	100%
18. KENTUCKY	yes	yes	yes	100%	100%	100%
19. LOUISIANA	Participation in such activities possible grounds for revocation of license.					
20. MAINE	yes	no	no	100%	100%	100%
21. MARYLAND	yes	no	Licensed funeral director and embalmer only	100%	100%	100%
22. MASSACHUSETTS	no law					
23. MICHIGAN	yes	no	no	100%	100%	100%
24. MINNESOTA	yes	no	no	100%	100%	100%
25. MISSISSIPPI	Pre-need contracts limited severely and controlled by Insurance Commissioner					
26. MISSOURI	yes	yes	no	80%	none	73%
27. MONTANA	yes	yes	no	100%	100%	100% on mutual consent
28. NEBRASKA	yes	yes	no	100%	100%	100%
29. NEVADA	Life insurance law governs					
30. NEW HAMPSHIRE	no law	Burial associations prohibited				
31. NEW JERSEY	yes	no	no	100%	100%	100%
32. NEW MEXICO	Life insurance law governs					
33. NEW YORK	yes	yes	no	100%	100%	100%
34. NORTH CAROLINA	yes	yes	yes	100%	100%	100%

STATE	PRE-NEED STATUTE	STATE CONTROL AGENCY	PERMIT REQUIRED	AMOUNT OF PAYMENTS PUT IN TRUST	AMOUNT OF INCOME PART OF TRUST	AMOUNT BUYER CAN WITHDRAW
35. NORTH DAKOTA	yes	yes	Can be engaged in only by operators of licensed funeral establishments	100%	100%	100%
36. OHIO	yes	no	no	100%	100%	100%
37. OKLAHOMA	yes	yes	yes	90%	100%	100% of amount paid into trust fund
38. OREGON	yes	no	no	100%	100%	100%
39. PENNSYLVANIA	yes	yes	no	last 70%	100% on deposit	last 70% of payments
40. RHODE ISLAND	no law – Pre-need arrangements may be grounds for suspension or revocation of license					
41. SOUTH CAROLINA	no law – funeral directors may not collaborate with life insurance companies in this area					
42. SOUTH DAKOTA	yes	no	no	100%	100%	100%
43. TENNESSEE	yes	yes	no	100%	100%	100%
44. TEXAS	yes	yes	yes	90%	100% less trust expenses	All of payments held in trust – no interest
45. UTAH	yes	yes	yes	at least 75%	100% of trust	90% of the amount placed in trust
46. VERMONT	no law					
47. VIRGINIA	yes	no	no	100%	100%	Mutual consent
48. WASHINGTON	Insurance law governs					
49. WEST VIRGINIA	yes	yes	no	95%	95%	Amount in trust less 25% or $35.00 whichever is greater

STATE	PRE-NEED STATUTE	STATE CONTROL AGENCY	PERMIT REQUIRED	AMOUNT OF PAYMENTS PUT IN TRUST	AMOUNT OF INCOME PART OF TRUST	AMOUNT BUYER CAN WITHDRAW
50. WISCONSIN	yes	no	no	100%	100%	100%
51. WYOMING	Commissioner of Insurance sets out rules and regulations					

Funerals: A Bitter Note

WASHINGTON — (AP) — An organization of eight million retirees charged yesterday that the funeral industry has engaged in "exploitative, unfair and deceptive practices" against bereaved customers.

Dr. Esther Prevey of Kansas City, Mo., told Congress that the National Retired Teachers Association combined with the American Association of Retired Persons strongly endorses proposed Federal Trade Commission regulations requiring full disclosure of funeral costs.

"The many graphic examples of unfair and deceptive practices we have already received from our members tend to confirm our belief that large numbers of older Americans have already suffered serious economic and emotional harm under the present system," Dr. Prevey said in testimony for a House small business subcommittee hearing.

She cited as examples some of the more than 2,000 complaints the association and the FTC have received:

—A Falls Church, Va., man was charged $1,000 for two burial vaults he learned later could have been purchased for about $40 each.

—A person in Tennessee was charged $1,591 for unspecified funeral services in addition to the cost of a casket, vault, clothing and obituary notices.

—A Chicago woman was about to pay $550 for a death certificate and pick-up and delivery of the body, until she learned the same services could be obtained elsewhere for $155.

—Several persons were charged for embalming and cemetery plots for bodies that were cremated.

"We are not talking about isolated instances of abuse by a few so-called small businesses," said Dr. Prevey, a member of the association's legislative council. "The issue here is a widespread pattern of misrepresentation, nondisclosure of price information and anticompetitive practices in a multibillion industry encompassing more than 22,000 funeral homes."

Under the present system, she added, the bereaved "are often forced to make one of the largest consumer purchases of their lives under severe time pressure and emotional distress and with an almost complete lack of information or experience."

The Federal Trade Commission plans to open hearings in April on the question of forcing funeral homes to tell if local laws do not require embalming, sealer caskets or an outer burial receptacle.

Howard C. Raether, executive director of the National Funeral Directors, said Wednesday such rules could force one-fourth of the funeral homes out of business and bring higher burial costs to the public.

Funeral director seeks stronger state regulation

By SALLY W. JONES
Daily News Staff Writer

An Anchorage funeral director is meeting with state legislators today in an effort to introduce a bill that would further regulate such businesses.

Richard Rome, a partner in the Evergreen Memorial Chapel funeral home here, will present a draft bill to key legislators for introduction during the current Juneau session.

THE BILL WAS drafted after the chapel discussed with other funeral directors statewide existing funeral home and embalming regulations in the state and what needs to be done to strengthen them.

Alaska statutes now cover only embalmer's licenses and include no clear provision for revoking a license for misconduct or other ethical or criminal violations.

A bill proposing more stringent funeral home and embalmer's laws was introduced in the last session of the legislature, but died in committee.

THAT BILL, requested by then-Gov. William Egan, followed a much-publicized case concerning an Anchorage funeral director, Gordon Green, and the five funeral homes he operated in and near Anchorage.

Green was indicted last year on criminal charges of embezzlement and holding a body for debt. The embezzlement charge stemmed from allegations he resold a casket. He was found guilty of both charges. The funeral director also was the subject of civil suits and an attorney general's action to have his license revoked.

The law being sought by Evergreen Chapel today would strengthen many of the regulations that prevented prosecutors last year from taking further actions in cases such as Green's.

UNDER PRESENT statutes, a funeral director can maintain his holdings in a funeral home even though his license has been revoked. Current laws also allow licensed directors and embalmers from other states reciprocal licensing rights here, even if other states' licensing regulations are weak.

The bill proposed by the chapel here also would require a person to train for at least one year in a licensed mortuary before obtaining an embalmer's license. Testing procedures for prospective licensees also would be strengthened by requiring familiarity with funeral law, accounting, psychology and management. And if the bill is approved and signed by the governor, funeral homes would be required to itemize funeral costs and services to clients.

Also included in the law are penalties of up to six months in jail and $5,000 for violating provisions of the act.

THE LAW WOULD allow all current license holders to retain their licenses, to be renewed yearly; and would provide a permit system for bush residents who now care for and dispose of the dead.

Lee Moeglein, an Evergreen funeral director and spokesman, said the chapel decided to seek the legislation because little has been done to strengthen funeral regulations since the Green case came to light. He said the bill Evergreen is proposing was drafted using model legislation compiled by the National Funeral Directors' Association and the states of Oregon and Minnesota.

TELEPHONE 312/236-3391

LAW OFFICES

LAPIN, PANICHI & LEVINE, LTD.

SUITE 1200-100 NORTH LA SALLE STREET

CHICAGO 60602

HARVEY I. LAPIN
RICHARD M. PANICHI
AARON LEVINE
LAWRENCE A. ROBINS
LAWRENCE M. GRITTON

January 20, 1976

William G. Berrier, Esq.
Legislative Affairs Agency
State of Alaska
Pouch Y, State Capitol
Juneau, Alaska 99801

Dear Mr. Berrier:

Pursuant to our telephone conversation, please find enclosed a copy of the Federal Trade Commission Report on the Proposed Funeral Industry Trade Practices Rule. The Commission is presently scheduling hearings on the Proposed Rule throughout the country to consider opinions concerning their comments.

H.B. 509 as proposed will give legislative sanction to the Alaskan funeral directors to engage in the types or practices found by the FTC to be harmful to the public. In this regard, we wish to draw your attention to pages 1 through 7 of the Report which contain a discussion in general of some of the practices found to be harmful and pages 19-20 and 85-103 which discuss the manner in which funeral directors have interferred with the market so as to limit competition. In particular we draw your attention to the discussion starting at page 86 about how the funeral directors have reinforced cultural benefits with an "elaborate web of state and private restrictions."

We are, as I advised you, special counsel to one of the national cemetery associations as well as several state cemetery associations. I personally am a member of the Advisory Board to the Comptroller of the State of Illinois (who has jurisdiction of the Funeral and Burial Laws of the State of Illinois), special counsel to the Louisiana Cemetery Board (whose Cemetery Act I drafted). We also represent numerous cemeteries and funeral homes throughout the country.

What's this guy's story!

It is surprising that the State of Alaska does not have extensive legislation on the subjects of funeral homes as well as cemeteries and we are in agreement that some legislation is required. However, H.B. 509 is the type of legislation which while appearing to protect the consumer is designed in fact to provide protection for a few people against free competition and to restrict the marketplace in order to allow the funeral director to continue to take advantage of the public by performing their services only at the time of a death, when the consumer's ability to make rational choice is severely diminished. These protections and restrictions are accomplished simply by doing the following: first by providing that only licensed funeral directors can make sales; secondly by prohibiting solicitation in advance of need by making it a basis for loss of a license and third by requiring that 100% of the funds paid in on a pre-need sale must be placed in a trust with the consumer having an unlimited right of refund.

Obviously, what seller is going to make sales when they know they could lose their license, be required to put all the funds into a trust so that any sales costs would have to be borne from other sources with the customer being allowed to terminate the sale at any time without any compensation to the seller.

Alaska is most fortunate that it has the opportunity to review the extensive legislation in the other states which have dealt with these subjects in a realistic manner and so avoid the pitfalls of the restricting legislation which as illustrated by the FTC Report has severely harmed the public.

H.B. 509 unfortunately contains many of the restrictive provisions intended to accomplish those goals which the FTC has recognized have harmed the public. H.B. 509 also does not reflect the extensive modern legislation throughout the country which has both allowed the public the opportunity to consider alternatives at a less emotional time and yet be protected from the pitfalls by accepted means which do not prevent the seller from entering the marketplace.

I hope that you can see the legislature of Alaska is embarking onto an area on which very careful study is required before adequate legislation can be enacted. We would strongly suggest that H.B. 509 does not accomplish the intended goals and as such should be sent back for further consideration in order to allow the opportunity for you to review other state legislation. In this regard, I would be happy to give whatever assistance were required.

Cordially,

LAPIN, PANICHI & LEVINE, LTD.

Harvey I. Lapin

HIL:cb

enc

TELEPHONE 312/236-3391

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LAWRENCE M. GRITTON

att.
Jan —

January 20, 1976

Representative Robert Bradly
House of Representatives, State of Alaska
Pouch V, State Capitol
Juneau, Alaska 99801

Re: H.B. 509

Dear Representative Bradly:

Pursuant to my discussion with Mr. Berrier, I am enclosing a copy of my letter to him with a copy of the Federal Trade Commission report.

We would appreciate your advising us of the status of this Bill as well as when the next hearing will be so that we may attend.

Cordially,

LAPIN, PANICHI & LEVINE, LTD.

Harvey I. Lapin

Harvey I. Lapin

HIL:cb

encs

ALASKA PLANNING AND MANAGEMENT

Consulting Service

Bernard L. Marsh, President

503 W. Northern Lights Blvd.
Suite 101
Anchorage, Alaska 99503
Tel. (907) 279-3195

January 30, 1976

Rep. W. E. Bradley, Chairman
House Commerce Committee
State Senate
Pouch "V"
Juneau, Alaska 99801

Dear Bob:

As a consultant I have conducted several feasibility studies in the field of mortuary science, and have learned quite a bit about the funeral director business. I would like to make some comments about CS for HB-509, which underwent public hearing between sessions and will be heard again by the joint commerce committees next week.

I believe the dual licensing system is the most logical, and would be fairest to the existing funeral directors in Alaska. There should be one license for embalming and preparation of human remains, and a separate license to operate a funeral business. The two functions are separate and distinct, the first requiring training in a technical skill, and the second requiring business acumen and public relations skills. That is not to say an individual could not hold or obtain both licenses, but many persons are suited to one role and not the other.

If a law is enacted requiring funeral directors to be licensed embalmers, several successful and well-run businesses in this state would be immediately placed under a cloud and in this sensitive profession would be at a competitive disadvantage. Such a requirement would serve no useful purpose that I can see, and would do considerable harm.

It appears to me that those who are pressing for a single license system requiring funeral directors to also be licensed embalmers are doing so with ulterior motivation. They want to restrain free competition in this field by hampering or freezing out their competition.

I expect to testify at the joint committee hearing on behalf of the Alaska Allied Funeral Services Association.

Sincerely,

Bernard L. Marsh, President
Alaska Planning & Management, Inc.

BLM/ap

Alaska State Legislature

House

JUNEAU ALASKA

From the office of Representative Bob Bradley
Chairman of the House Commerce Committee

FOR IMMEDIATE RELEASE

A joint hearing on House Bills 264, 271 and 509, dealing with mortuary practices will be held by the House and Senate Commerce Committees. It will take place on Friday, February 6 at 8:00 a.m. in Room 120 of the Court Building in Juneau.

The committees invite all interested persons to present testimony at that time. Representative Bob Bradley (D-Anchorage) Chairman of the House Commerce Committee stated, "In the past we have heard largely from members of the industry. We are particularly interested in hearing about good and bad experiences citizens have had with those engaged in the practices of mortuary sciences following the death of their loved ones'".

Written testimony will also be accepted. It should be addressed to Representative Bob Bradley, Pouch V, State Capital, Juneau, Alaska 99811.

THE LEGISLATURE OF THE STATE OF ALASKA
FISCAL NOTE
Second Session - Ninth Legislature

I. REQUEST
Bill No. House Bill 509 (proposed CS)
Title: An Act relating to funerals and the practice of mortuary science
Requested by: House Commerce Committee Date:
Return Date Requested:
Agency: Commerce Program: Licensing Professions

II. FISCAL DETAIL
Budget Request Unit(s) Affected: Regulating and Licensing of Professions

A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100	PERSONAL SERVICES						
200	TRAVEL		6.0				
300	CONTRACTUAL		5.0				
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		11.0	.0	.0	.0	.0

B. FUNDING: (Thousands of dollars)

GENERAL FUND		11.0	.0	.0	.0	.0
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	/	0 /	0 /	0 /	0 /	0 /
MAN MONTHS (P./T.)	/	0 /	0 /	0 /	0 /	0 /

From the office of Representative Bob Bradley
Chairman of the House Commerce Committee

FOR IMMEDIATE RELEASE

A joint hearing on House Bills 264, 271 and 509, dealing with mortuary practices will be held by the House and Senate Commerce Committees. It will take place on Friday, February 6 at 8:00 a.m. in Room 120 of the Court Building in Juneau.

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Written testimony will also be accepted. It should be addressed to Representative Bob Bradley, Pouch V, State Capital, Juneau, Alaska 99811.

Alaska State Legislature

House

JUNEAU ALASKA

February 3, 1976

MEMORANDUM

TO: All Members of the House Commerce Committee

FROM: Representative Bob Bradley, Chairman
House Commerce Committee

The Commerce Committee will meet Friday, February 6th at 8:00 a.m. in Room 120 of the Court Building for a public hearing on House Bills 264, 271 and 509 dealing with mortuary practices.

This will be a joint House and Senate Commerce Committee meeting.

February 18, 1976

Mr. Robert Mellin
3414 Knik
Anchorage, Alaska 99504

Dear Mr. Mellin:

Thank you for your letter concerning the mortuary science bill which is presently in my committee

The committee has expressed their desire to hear from the public and their experiences with businesses. I will relay your experiences and personal views to the committee.

Again thank you for expressing your views on this matter.

Sincerely,

Bob Bradley

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r

t

DEAR REPRESENATIVE BRADLEY,

MY WIFE AND I HAVE SOME THOUGHTS ON THE MORTUARY SCIENCE BILL. AS ONE WHO HAS HAD TO SELECT A CASKET IN RECENT TIMES I WOULD LIKE TO POINT OUT THAT THE SELECTION WAS POOR. FAR TO EXPENSIVE FOR THE AVERAGE FAMILY FACING A DRASTIC CHANGE WHEN A BREAD EARNER IS LOST TO A FAMILY.

ALSO, IT SHOULD BE LAW IN ALASKA THAT A MORTUARY MUST OFFER A RENTAL PROGRAM OF A REASONABLE NATURE. THERE ARE THOSE WHO WANT TO BE CREMATED IN A VERY INEXPENSIVE BOX OR CASKET YET FOR VIEWING PURPOSES RELATIVES DO DESIRE SOMETHING BETTER.

WE DO NOT WISH TO SEE ANY BUSINESS OVER-LOADED WITH UNNECESSARY REGULATION BUT THE " MORTUARY BUSINESS " HAS NOT COOPERATED TO THE EXTENT WE BELIEVE THEY SHOULD, WITH THE PUBLIC.

BELIEVE YOU CAN RESOLVE THIS IN THE PUBLIC'S INTEREST AND YET NOT BURDEN THE BUSINESSMAN.

SINCERELY,

Bob Mellen

3414 Knik

Anch.

SPENARD HEIGHTS MORTUARY and CREMATORY
3804 SPENARD ROAD • SPENARD, ALASKA • 279-3741

FEBRUARY 13, 1976

REPRESENTATIVE BOB BRADLEY
CHAIRMAN, HOUSE COMMERCE COMMITTEE
POUCH V
JUNEAU, ALASKA 99801

DEAR REPRESENTATIVE BRADLEY:

CONCERNING HOUSE BILL 509, THERE ARE TWO ITEMS THAT I THINK ARE IMPORTANT TO THE PUBLIC AND SHOULD BE KEPT IN THIS BILL.

ONE IS TO LICENSE BY A SINGLE LICENSE METHOD ALL PRACTITIONERS IN FUNERAL SERVICE. SOME 75 TO 80% OF ALL PRACTITIONERS THROUGH OUT THE NATION HOLD BOTH LICENSES. IT HAS BEEN PROVEN THAT A PERSON HOLDING A SINGLE LICENSE TO PRACTICE ALL SEGMENTS OF MORTUARY SCIENCE DOES NOT DEMAND A HIGHER WAGE SCALE. FUNERAL HOMES SERVING COMMUNITIES OUTSIDE OF THE LARGE METROPOLITAN AREAS REQUIRE PEOPLE WHO HOLD BOTH LICENSES, AND FACTUALLY ARE NOT INTERESTED IN A PERSON WHO HAS JUST A LICENSE TO PRACTICE FUNERAL DIRECTING OR JUST A LICENSE TO EMBALM. YOU HAVE LETTERS ON YOUR DESK WHICH INDICATE THAT EVEN THE PROPONENTS OF THE DUAL LICENSE ARE INTERESTED IN HIRING PERSONS ABLE TO PRACTICE ON A "WHOLE MAN" BASIS. SOME OF THE PRESSURE TO LICENSE DUALLY IS FROM THOSE SEEKING TO LICENSE A SPOUSE AS A FUNERAL DIRECTOR THROUGH THE GRANDFATHER CLAUSE IN THE LAW. IT SHOULD ALSO BE NOTED THAT A GREAT DEAL OF THE DEFINITION AND HAIR SPLITTING PROBLEMS IN ATTEMPTING TO DEFINE THE FUNERAL DIRECTOR, WOULD BE ELIMINATED FROM THE BILL SHOULD YOU GO TO A SINGLE LICENSE SYSTEM. ADMINISTRATION OF THE LICENSING PROCEDURES WOULD BE GREATLY REDUCED FOR THE COMMERCE DEPARTMENT.

TWO IS THE PORTION OF THIS BILL RELATING TO THE SALE OF PRE-NEED/PRE-FINANCED FUNERALS. THIS IS SOUND AND WELL WRITTEN. THE PUBLIC AT PRESENT RECEIVES NO PROTECTION IN THIS AREA, AND THE SALE OF THESE FUNERALS IS ON THE INCREASE IN ALASKA. THE LAW HAS BEEN PROVED CONSTITUTIONAL TIME AND TIME AGAIN IN OTHER STATES. IT DOES NOT TAKE AWAY THE ABILITY OF THOSE DESIRING TO PRE-ARRANGE AND PRE-FINANCE FUNERALS TO DO SO. THESE SERVICES HAVE ALWAYS BEEN A PART OF EVERY FUNERAL HOME THROUGH OUT THE STATE, AND WILL CONTINUE TO BE OFFERED. IT SHOULD BE NOTED ALSO, THAT NO ONE WILL BE PUT OUT OF BUSINESS BY THE PASSING OF THIS LEGISLATION. THERE IS NO FUNERAL HOME PRESENTLY OUT SELLING (DOOR TO DOOR) PRE-FINANCED FUNERALS. THOSE CEMETERIES THAT HAVE ENTERED THIS FIELD STILL HAVE THERE PRE-NEED AND AT-NEED CEMETERY LOT SALES TO STAY IN BUSINESS.

I HOPE THAT YOU AND YOUR COMMITTEE WILL CONSIDER THESE POINTS, AND THAT HB 509 CAN BE PASSED OUT OF YOUR COMMITTEE TO THE RULES COMMITTEE WITHIN THE NEXT TWO OR THREE WEEKS.

SINCERELY,

Richard D. Rome

RICHARD D. ROME

SPENARD HEIGHTS MORTUARY and CREMATORY

3804 SPENARD ROAD • SPENARD, ALASKA • 279-3741

February 14, 1976

Mr. Billy Berrier
Legislative Affairs Office
Capital Building
Juneau, Alaska 99801

Fwd Bob, This really fouls up the whole purpose of the licensing statute. We keep our some status — no standards!

Dear Mr. Berrier:

There has been much discussion on HB 509 relevant to the requirements that an applicant for licensure must first meet to obtain a license to practice in Alaska. We have discussed at great length the amount of college credits, type of courses, examinations and apprenticeship requirements. This is good, and I think has proven fruitful in making some important decisions.

There is one small word, the word "or" placed at the end of section (a)(1) of 08.42.070 RECIPROCITY, that renders the whole licensure requirement question moot!

What this "or" does is take away all of the educational standards from the license for those who wish to practice in our State by reciprocity. They do not now have to meet requirements substantially equal to the requirements of this bill. They need only be 18 years of age, not convicted of a felony, be licensed in another state (any state) and to have practiced in that state for one year AND pass the examination on our Vital Statistics law, the provisions of this chapter and the requlations promulgated by the department under this chapter.....

As you know, 100% of all license presently held in Alaska come either from reciprocity or grandfather rights. Not one person has taken the State examination in obtaining his license here. This is a trend that will not suddenly cease to exist. There will be no, or few applicants for examination in the coming years. All those seeking licensure here will continue to do so through reciprocity. With a whole in our reciprocity law so large you could drive a truck through it we do a dis-service to the public by allowing it to exist.

We have three alternatives as I see it. 1. Take out the "or". 2. Add under (b) of section 08.42070 the requirement to pass the examination provided by the Conference of Funeral Service Examining Boards of the kUnited States. 3. Require simply that a person desiring licensue hold a "legal license" from another state, and that that license was obtained by examination rather than by a grandfather clause or by reciprocity.

To do anything but one of the above three would be a great injustice to the public.

Sincerely,

Richard D. Rome

Richard D. Rome

cc: Ed Willis & Bob Bradley

DAVID BONNERUP
1301 INLET PLACE
ANCHORAGE, ALASKA 99501

FEBRUARY 13, 1976

REPRESENTATIVE BOB BRADLEY
CHAIRMAN-HOUSE COMMERCE COMMITTEE
POUCH V
JUNEAUS, ALASKA 99811

DEAR REPRESENTATIVE BRADLEY,

I AM WRITING IN REGARDS TO HOUSE BILL 509. MY NAME IS DAVID BONNERUP, AND I AM A LICENSED EMBALMER IN THE STATE OF ALASKA. JULY FIRST I ALSO WILL BE LICENSED IN THE STATE OF MINNESOTA. I AM PRESENTLY SERVING AN APPRENTICESHIP UNDER A MORTICIAN, IN ANCHORAGE, WHO IS LICENSED IN BOTH STATES. I GRADUATED FROM THE UNIVERSITY OF MINNESOTA, WITH A B.S. DEGREE, MAJORING IN MORTUARY SCIENCE.

I WILL SPECIFICALLY ADDRESS MYSELF TO THREE AREAS OF THE BILL. 1) SINGLE LICENSE AS OPPOSED TO A DUAL LICENSE 2) PRE-FINANCED TRUST LAW 3) PERMITS FOR THE OUTLYING BUSH COMMUNITIES.

I SUPPORT THE PROPASAL FOR A SINGLE LICENSE REGUALTING EMBALMING AND FUNERAL DIRECTING. I FEEL KNOWLEDGE IN ALL PHASES OF FUNERAL SERVICE IS TO THE BEST INTEREST OF THE PUBLIC. THERE OFTEN ARISE OCCASIONS WHERE THE FUNERAL DIRECTOR IS FACE WITH A QUESTION, FROM A FAMILY, CONCERNING THE EMBALMING OPERATION. THE QUESTION SHOULD BE ANSWERED HONESTLY, AND ALSO ETHICALLY, BY THE FUNERAL DIRECTOR. I FEEL TO DO THIS, THE FUNERAL DIRECTOR MUST HAVE A WORKING KNOWLEDGE OF THE TECHNICAL ASPECTS OF BOTH FUNERAL PHASES.

THERE HAS BEEN SOME DISCUSSION CONCERNING THE POTENTIAL OF INCREASING THE SALARY OF FUTURE EMPLOYEES, BECAUSE OF THE INCREASED EDUCATIONAL REQUIREMENTS. I GRADUATED IN JUNE OF 1975, AND WAS ACTIVELY ENGAGED IN SEEKING EMPLOYMENT, IN ALASKA, MINNESOTA, AND IDAHO. I WAS OFFERED SEVERAL JOBS, AND THE SALARY RANGED FROM $400 TO $600/MONTH PLUS BONUSES. I ALSO TALKED TO SEVERAL OWNERS IN ALASKA, AND THE SALARIES WERE ALL IN THAT RANGE AS WELL. THIS LEADS ME TO BELIEVE THE EMPLOYERS OFFERED A GOOD SALARY, NOT BECAUSE OF EDUCATION, BUT BASED ON HOW MUCH THEIR FIRST COULD AFFORD.

I ALSO FEEL THAT ALASKA HAS A CHANCE TO ADOPT A GOOD LAW, AND I FEEL ALASKANS DESERVE THE BEST, AND THE SINGLE LICENSE IS THE BEST.

Evergreen Memorial Chapel, Inc.

737 E STREET TELEPHONE 279 5477
P O BOX 537 ANCHORAGE ALASKA

THE PRE-FINANCE TRUST LAW IS IN THE INTEREST OF THE CONSUMER. IF A PERSON WISHES TO PAY MONEY FOR A FUTURE FUNERAL, THAT PERSON SHOULD EXPECT THE MONEY TO BE AVAILABLE WHEN THE NEED ARRISES! THE MONEY SHOULD BE THERE EVEN IF THE FUNERAL HOME INVOLVED HAS GONE OUT OF BUSINESS.

THE PERMIT FOR THE BUSH COMMUNITIES IS A PRACTICAL IDEA. WHEN AN INDIVIDUAL DESIDES TO TAKE CHARGE OF BODIES, FOR COMPENSATION, THAT PERSON SHOULD BE MADE OF POTENTIAL HEALTH HAZHARDS ASSOSIATED WITHE THAT BODY, AND PROPER PROCEDURES TO FOLLOW. THROUGH THIS PERMEIT THESE INDIVIDUALS CAN BE MADE AWARE OF THESE SITUATIONS.

THANK YOU FOR YOUR TIME.

SINCERELY,

David Bonderud

DAVID BONDERUD

Evergreen Memorial Chapel, Inc.

737 E STREET TELEPHONE 279-5477
P O BOX 537 ANCHORAGE ALASKA

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

OFFICE OF CLARK, ROBINSON & HELLEBUSH, GENERAL COUNSEL, 2020 CAREW TOWER, CINCINNATI, OH 45202

February 10, 1976

Mr. Billie G. Berrier, Staff Counsel
Legislative Affairs Agency
State of Alaska
Juneau, Alaska 99801

Dear Mr. Berrier:

At the request of Mr. Thomas H. Clark, enclosed you will find the document regarding pre-need.

Very truly yours,

(Mrs) Margaret Schenz
(Secretary to Mr. Thomas H. Clark)

EXECUTIVE OFFICE: HOWARD C. RATHER, EXECUTIVE DIRECTOR, 135 WEST WELLS STREET, MILWAUKEE, WISCONSIN 53203 / 414/276-2700

BOARD OF GOVERNORS: E. Jay Gerst, Pompano Beach, FL — President; Myron L. Van Horn, Lakeview, OH — First Vice President; Boyd Leslie, Yakima, WA — Second Vice President; Cecil L. Goettsch, Monticello, IA — Secretary; Stanley James, Warren, IL — Treasurer; Edward J. Fitzgerald, Albuquerque, NM — Past President; Edward A. Tedeschi, Waterville, ME; John S. Tolton, Beaver Falls, PA; William J. Warwick, Seward, NE; W. Al "Mac" Goldbach, Jr., Conway, SC; William P. Rutherford, Columbus, OH; Walter R. Chasen, Chicago, IL; Carle D. Buggeman, Casey, IL; Verlyn L. Heath, Paragould, AR; Glenn W. Beatty, Emmett, ID; Richard L. Meyers, Ogden, UT

PRESENTATION IN RE PRE-NEED STATUTES

The question of pre-need funeral sales has been an item of importance in the funeral service field going back to 1950. Presently today, there are 35 states which have statutes which in some way affect the sale of pre-need contracts.

The promotion which we call pre-need started more than thirty years ago in the West, where some 90% of the pre-need funerals in this country are sold annually. It is the people of this same area which, according to a survey of Dr. Robert Fulton, Associate Professor of Sociology at Los Angeles State University, have the worse impressions and feelings as to funeral service and funeral directors. This survey showed that this is in no small part due to pre-arrangement sales. Most of the western states have now taken steps to correct this evil and to give to their citizens the protection to which they are entitled from the promotors and schemers. A few years ago California, which previously had had the highest amount of pre-need sales in this country, passed a pre-need law. During the last few years, the State of Idaho, which has had a statute, found reason to enforce this statute to protect its citizens and the case arising out of this enforcement will also be referred to later. More recently, the State of Colorado, through its insurance commissioner, has had to put tighter reins on the sales of pre-need because of flagrant abuses of the law and advantages taken of its citizens. Back in 1953, after many citizens had lost substantial sums of money by reason of uncontrolled pre-need sales, the first law was passed in the State of Minnesota. Since that time, the other 34 states have followed suit. These laws were drawn to handle sales of pre-need contracts by any person, partnership or corporation whomsoever so that it is not a law to favor or disfavor any seller of pre-need contracts. It puts those actively engaged in funeral service under the same restraint as it does those outside the funeral service. According to the

Better Business Bureau which has issued a strong pamphlet on this matter to which we will refer later, most of the problems of pre-need sales have arisen where the sellers were not funeral directors.

The citizens and public officials of Wyoming need only look back a few years to see a prime example of how the public can suffer. More recently, however, the State of Kansas, and this is documented in the Supreme Court case of Kansas to which we will refer later, found that many hundreds of thousands of dollars of pre-need funds had been paid to ten corporations owned by a Denver operator.

The Court indicated that less than $100.00 of this money was under the jurisdiction of the State of Kansas, and that should these corporations go out of business or be otherwise dissolved, that the money paid by the purchasers would be lost although it was paid in good faith. The Court reminded the participants that, although the loss had not yet occurred, the Court would follow the well advised decision of the State Legislature in not waiting for the loss to first occur. The Court in effect said that it was not willing to lock the barn door after the horse was gone, but that the Legislature had the right to legislate to prevent the horse from escaping.

The profiteering by sellers of pre-need contracts should never be underestimated. Let me relate to you two instances which indicate the extent to which those not actively engaged in the practice of funeral service will go to sell pre-need and/or circumvent present pre-need laws. There have been instances where caskets which have been sold to families, where the casket was the sole item sold under the pre-need contract, were immediately delivered and stored in a warehouse in the name of the purchaser who could at any time he so desired withdraw the casket from the warehouse. It is obvious that the caskets could be needed any time from one day to 25 years hence. If some time did elapse, what would be the condition of the caskets and would not the storage charges exceed the wholesale value of that casket which, on a national average, is $122.00?

There have also been instances where vaults have been immediately delivered and buried in an individual's back yard because the law regulated "sales of funeral merchandise to be delivered in the future." Is it in the public's interest that the purchaser would be required to dig up the vault and take it with him if he moved or have it transported to the cemetery in event of death? As these cases easily illustrate, the welfare of the purchasing public from the high pressure of salesmen must be of prime consideration.

You are requested to consider adoption of a revision in your Pre-Need Law. The public interest and the public welfare are evident when we remember that purchase of a funeral is not like purchasing a car or a washing machine on the installment basis. This is because the average purchaser of a funeral is not fully conversant with what is included or not included in a funeral, and the relative cost thereof, nor is he likely able to compare comparative qualities, services and prices. 98% of the funeral services are provided by a chosen funeral director according to the survey of Dr. Robert Fulton for one of two reasons; the closeness of the funeral director's location or because the funeral director had buried another member of the decedent's family.

Because the present generation and the generations to come are becoming more mobile - that is we die not near the place where we wish to be buried or die away from the place where we lived most of our lives, none of us is sure of the whereabouts or conditions of our death. This is another of the reasons why proper pre-need laws are generally acknowledged to be desirable. These laws must contain certain basic elements, such as holding the funds received in trust, making sure the funds may not be used by the recipient prior to fulfillment of the contract and the ability and the right of the purchaser to withdraw these funds, which is usually done because of change in circumstances, change in choice of funeral director or change in domicile. The law which is recommended to you adequately covers these points, and later on it will be pointed out to you where laws of less restriction do not adequately provide for them.

For many years the opponents of pre-need statutes have advocated open pre-need sales without legislative restrictions. In the latest two instances where states passed pre-need legislation, this approach was changed and they now acknowledge that some pre-need legislation is necessary. However, the legislation which they advocate is of such a nature as to make pre-need sales immediately profitable to them; however, the profit should not be through profiteering nor should it be as a result of a contract made by an uninformed public where the possibility of non-performance on behalf of the Seller is extraordinarily great.

The proponents of pre-need sales tell us that pre-need contracts reduce the cost of the funeral merchandise or funeral service. A perfect example was the testimony of the plaintiff in the Illinois Supreme Court case where he stated "successful operation of their business (selling pre-need contracts) required the immediate deduction from payments of 32.1% for commissions and over 36% for other optional expenses." If the purchaser is to receive the same quality funeral for the same price that that funeral would have cost him had he died at that time, who is going to pay for the expenses incurred by the seller of the contract. The Court pointed out that the only answer can be that the result is a funeral of less quality - in other words, the purchaser is not getting that for which he contracted. The prime example of the questionable cost statements appears in the testimony of Mr. Richard N. Carpenter, Assistant Attorney General of the State of New Mexico, who appeared before the United States Senate Sub-Committee in Washington, D. C. in 1964, which Committee was investigating fraud and misrepresentations affecting the elderly. Mr. Carpenter stated that, "Sales are made door to door and are upon the installment basis", and that the sellers were selling only caskets and that the "total purchase price has usually been $637.50." Mr. Carpenter then stated that the President of the selling company had indicated to the Attorney General's office in New Mexico that the wholesale cost of the casket was $96.50. This is important when we realize that the average funeral

service provided in the Rocky Mountain Region, which includes the States of New Mexico and Wyoming, during the year 1965 was, according to a national survey of Eugene F. Foran, $605.00 and that the wholesale cost of that casket was $106.00. The survey covered over 100,000 funerals. The sales in New Mexico did not include a full funeral service, although the price was more than such an average service. Mr. Carpenter stated that upon investigation they found that the purchasing public thought that a full service was included. It should be pointed out here that pre-need funeral service contracts are available to every citizen. They merely have to call a funeral director of their choice and make such an arrangement. Under these arrangements, there is no cost to or by the funeral director and, therefore, all of the money paid by the purchaser can go to the providing of that quality funeral which is as chosen at the time it is needed. In this same regard, it should be noted that the word "professionalism" is used in some laws which license funeral directors. Because of this unique nature, they are willing to serve the public to the public's benefit and to accept profit only at the time they are entitled thereto.

The proponents of pre-need sales have indicated on occasion that there is a crying need by the public for pre-need sales. A Sub-Committee of the United States Senate had a hearing on May 19, 1964 in Washington. At this hearing before the Sub-Committee called "The Sub-Committee on Frauds and Misrepresentations affecting the elderly of the Special Committee on Aging of the United States Senate", Mr. W. Dan Bell, Manager of the Rocky Mountain Better Business Bureau of Denver, Colorado, stated that between "8 to 10 million dollars in pre-arrangement funeral contracts have been sold. Of this money, much of it is sold on an installment contract." This is extremely important when we find that there is a 46% lapse factor to insurance figures on the completion of such contracts. So that much of the money paid for an item that may not be due for a period of twenty or twenty-five years finds its way into the hands of the promoters. Another statement before the same Committee concerning

the need of such contracts was made by Mr. Bell and goes as follows:

> "I recall back in Cleveland, Ohio when I was much younger, that the cemetery lot promoters moved into Cleveland during the depression, and they sold cemetery lots on the basis of trading the elderly people out of their pass-books, their savings pass-books, and at that time, they sold more than - well, they sold enough cemetery lots in the city of Cleveland to bury all of our dead for a period of 200 years."

When we look to the states which have properly regulated pre-need contracts, we find that the funerals provided pursuant to such contracts amount to only 1% of the total funerals provided. Thus, does this indicate there is a need?

The third objection of opponents to pre-need legislation, such as has been adopted in most of the other 34 states to which we have referred, is that such legislation in effect prohibits the carrying on of a lawful business activity and, therefore, such legislation is unconstitutional. As indicated above, there have been 6 states whose Supreme Courts have upheld the constitutionality of pre-need statutes. Each of these cases have dealt with the problem of whether such statute was unconstitutional by reason of this objection. In the case of J. M. Falkner, Banking Commissioner of Texas versus Memorial Gardens Association, Inc., the Texas Supreme Court said:

> "The fact that the Act requires all funds collected under the contract to be deposited in a trust fund is a mode of regulation of the business and does not prohibit its conduct."

Also, the problem was mentioned in the Illinois case which was Memorial Gardens Association, Inc. versus Elbert S. Smith, Auditor of Public Accounts wherein the Illinois Supreme Court said that the defendants,

> "Assume no risk in connection with the increase of the cost of merchandise or services and receive the income from the sums retained. Such procedure invites regulations of a stringent nature."

Continuing, the Court said:

> "A large discretion is necessarily vested in the legislature to determine not only what the interests of the public welfare require but what measures are necessary to secure such interest. We do not believe the present

> statute operates to prohibit plaintiff's legitimate business. It does regulate the manner in which the business may be conducted. Practically, plaintiffs will no longer be able to collect prospective profits in advance without furnishing adequate guaranty for performance."

Continuing the Court said:

> "There is nothing unique in requiring one who contracts for performance in the future to give security for that performance."

Continuing the Court said:

> "The public has a vital interest in securing that result and, insofar as the rights of plaintiffs are affected, those considerations must yield to the paramount public welfare."

The next case which mentioned this is the Arkansas case of Reserve Vault Corporation versus Clint Jones wherein the Court said:

> "It would be most unusual to expect, or require, prospective purchasers to furnish or advance capital funds necessary for the operation of a business."

The next case to be decided was a case in the State of Idaho which was Messerli versus Monarch Memory Gardens, Inc. wherein the Court said:

> "The trust fund provisions of the statute in question are designed to require reserves sufficient to assure the purchasers that the Companies with which they are dealing will be able to complete their contracts when the time for performance arrives."

After the Idaho case, the Supreme Court of Utah in the case of Utah Funeral Directors and Embalmers versus Memorial Gardens of the Valley, Inc., without discussion, simply stated that based on prior decisions the law was constitutional and was a regulatory statute and not a confiscatory statute.

A labor case to be decided in this regard was the case of State of Kansas versus Norman Anderson. The Court in that case stated simply that whether the purposes of a particular statute should be obtained by limited regulation or by absolute prohibition is a question to be answered by a legislature and continued by saying:

> "It may again be pointed out that under their contracts, aside from the so-called merchandise trust which is under their control, defendants are not required to make any expenditure for merchandise until after request and after

full payment. The particular merchandise need not be held by defendants at the time of the making of the contracts, or even to be in existence. We would not deprecate promotion or sales costs in the operation of a business but these are not ordinarily permitted to become so burdensome as to put one out of business if advance profits be not drawn. That the statute may seem onerous to defendants in its operation does not render it unconstitutional."

All of these six decisions agreed with each other that the objection that the law was confiscatory and prohibited an otherwise legal enterprise had no foundation.

A seventh case was in West Virginia and was one of the earliest cases and the decision in that case was a 4 to 3 decision against the constitutionality wherein the Court held that the purpose clause did not set forth public regulation power. In each of the six cases which we have herein noted, the dissenting opinion in the West Virginia case is quoted at length and said to be the better view. Subsequently, the legislature of the State of West Virginia has passed a new pre-need statute very similar to the statute which is recommended to you and the legality of that statute has not been questioned.

In each of the six cases referred to earlier (this does not include the West Virginia case), the Court discussed at some length the need and the constitutionality of legislation in the pre-need field. Some quotations from these six cases are as follows:

In the Texas case, the Court said:

"Clearly the Act applies alike to all individuals and corporations desiring to sell pre-arranged or pre-need funeral services or funeral merchandise to be delivered at an undertermined future time dependent upon the death of the contracting party. It is actual classification by the legislature and it is made to apply to all persons and corporations in the class."

Continuing the Court stated:

"Senate Bill 52 was enacted in the public interest."

In the Illinois case, the Court said:

"The enactment of statutes having for their object the prevention of fraud, deceit, cheating and imposition is within the police power of the State."

"The public has a vital interest in the proper disposition of the bodies of its deceased members. Persons

> engaged in this business have been subjected to rigorous regulation specifying the place and manner in which their activities may be conducted and prohibiting such activities without license or permit. This has been done, not only out of proper respect for the dead, but in the interest of public health. Such regulatory statutes have not been confined to the business of undertaking and embalming."

The next case to be decided was the Arkansas case, and the Court there said:

> "In determining the constitutionality of a statute bearing on its face clear indication that it was designed to prevent fraud, the Court may not give weight to the fact that fraud was neither charged nor proved."

The Court then decided,

> "We think unquestionably the Legislature, in passing the Act, had in mind the protection of the public."

From this decision you can see that the legislature did not wait for fraud to exist but kept the public interest in mind and enacted the so-called "ounce of prevention."

Again referring to the Arkansas case, the Arkansas Court agreed with the Illinois case in that "the trust fund provisions of the Act in question are designed to accomplish the same purpose" as insurance laws. "That is to assure the purchasers that the companies will be able to complete their contract when the time for performance arrives."

The next case in order of time was the case in the State of Idaho which stated:

> "Mr. Lloyd, president and sole owner of Monarch, testified that the company's average contract runs approximately four and one-half to five years before it is paid out. When we consider that the contract payments are to be made within a short period of time as compared to the average lapse of time until performance of the pre-need contracts; that during the long interval between full receipt of the purchase price and contract performance, the possibilities for fraud are great and risk of insolvency, with consequent inability to perform are inherent, it is then that the wisdom of the legislation becomes apparent."

As to Utah case:

The Court simply stated that the defendants were in violation of:

> "these statutes which are obviously made for the protection of the payor-purchaser in obtaining the funeral services contracted for."

The last of the six cases was the Kansas case wherein the Court said:

> "Approximately ninety per cent of these sales are on an installment plan basis with payments extending for as much as seventy-two months and approximately ninety per cent also include the sale of a burial vault and memorial marker."

The Court also said:

> "It must be remembered defendants operate as a business venture, for profit, and there are many possibilities whereby money received from the sale of lots might be diverted without adequate provision for maintenance and care of the cemeteries, which is exactly what the statute seeks to prevent."

Continuing along the same line of thought, the Court said:

> "There is a public interest in the protection of funds intended for a particular purpose, from whatever hazard, whether the normal vicissitudes of business or plain fraud and deceit."

Continuing the Court quoted 68 A.L.R. 2nd 1251 which said:

> "Pre-need burial insurance contracts have become quite common in this country, and since they present opportunities for fraud and frequently cater to people most easily duped by fraudulent schemes, many states have attempted regulation of such contracts."

In concluding the Court's decision of public interest, it concluded:

> "The whole enterprise presents a fertile field for fraud and imposition and is clearly subject to the police power of the State."

From this it should be clear that there is public need for proper pre-need legislation, and that such legislation where it required a 100% deposit is both desirable and constitutional.

Many other things have been said about the desirability of pre-need legislation which requires 100% deposit. One of the last legislatures to pass such a law was the State of Kentucky. That bill is extremely similar to the bill which you are considering. General feelings as to this bill are echoed by the statement of the Commissioner of the State of Kentucky. He stated simply that never before had he seen legislation so much in the public interest, and that he would be remiss in his duties if he did not advocate passage of this legislation.

That same sentiment is in essence expounded by the Associations of Better Business Bureaus which is the national association for the local associations of Better Business Bureaus. In 1960 the Association issued a pamphlet entitled, "Facts you should know .... Questions you should ask about .... The pre-arrangement and prefinancing of funerals."

In 1963 and again in 1966, this pamphlet was brought up-to-date. There is no question that it advises regulations such as contained in most of the state statutes.

Earlier reference was made to a hearing of a sub-committee of the United States Senate on frauds and misrepresentations, and the conclusion of its report reads as follows:

> "Preliminary inquiry by the sub-committee has revealed actual and potential losses resulting from the sale of pre-need burial services across the state lines or through the mail. Often, victims are elderly persons who have sought to make certain that they themselves, rather than their survivors, will bear such costs. The threat of such losses, and the cruel nature of the deception, calls for broadened investigation by this sub-committee."

You might ask why we do not ask for federal regulation as to the pre-need contracts. As a matter of principle, we believe it is better for the states to regulate where they can rather than look to the Government in Washington and, in following this reasoning, when this question was brought to the attention of the Federal Trade Commission in Washington, the Commissioner simply stated, "that the matter of funeral service is a matter for local legislation on a local level."

Besides the moral and legal questions as to the public interest and constitutionality, persons selling pre-need funerals fail to notify the family of the decedent of two rights. First, the right to a social security lump sum death benefit, and that benefit in the event there is no spouse, can only be used toward payment of a funeral bill. Presently social security benefit is $255.00. If a funeral is prepaid and no spouse survives, the social security benefit is lost. It cannot be collected. Secondly, a veteran is also entitled to a death benefit of $250.00 but his

family also cannot recover any part of it if the funeral has been paid for prior to death. This means that the next of kin, where there is no surviving spouse, would receive no social security death benefit even though the wage earner had paid his social security taxes, and that the family of a deceased veteran, whether it was his wife or children, would not receive the last token of appreciation from those the decedent served while a member of the Armed Forces.

Six times those who oppose proper regulations and laws for pre-need sales have presented their arguments to State Supreme Courts only to have those arguments refuted in the public interest. It is felt that an attempt along this line will be made so far as this Committee and Legislature are concerned.

It is sincerely hoped that the events in other parts of the country both as to abuses and court decisions will not allow your judgment, which should be based on what is best for the citizens of your state, to be blinded by those who are concerned only with profits and who have no consideration for the public welfare.

Prewitt Enterprises

GENE & GAYE PREWITT, OWNERS • PREWITT FUNERAL HOME • ISLAND BUS CO.

BOX 1001 - SITKA, ALASKA - 98835

February 10, 1976

Feb

Representative Bob Bradley
Chairman House of Commerce Comm.
Pouch V
Juneau, AK 99811

Dear Representative Bradley:

Let me take a few moments to say thank you for the consideration and effort you and your committee have put into House Bill 509, and also for the opportunity for some of us in the funeral profession to voice our opinions.

I would like to summarize my feelings with respect to HB 509:

1) I feel that one year of college should be sufficient in addition to apprenticeship, mortuary school and state board examinations. This would not make our requirements greater than the majority of the States and unecessarily limit the potential areas from which we could seek prospective employees in the event need arises.

2) We very firmly support the pre-financed trust law. I operated the mortuary in Fairbanks a number of years ago after a cemetery promoter (now deceased) had pre-sold a large number of clients. Unfortunately the funds were not in trust and by spring we had the remains of six or seven deceased individuals in temporary storage awaiting funds to even open and closed the acquired graves. It should not be necessary to describe the mental anguish and hard feelings experienced by the purchasers of these contracts. A situation such as this should never again happen in our State of Alaska.

3) The permit system would not take authority from the office of the Coronor, but assure him that there would be someone in the villages making certain that a burial or cremation would not take place until a death certificate had bee file and a burial permit secured from the magistrate. A burial would not take place until all medical or legal investigations would be complete. This would appear to be an insurance policy for the office of the Coronor.

4) The single license provision would assure a more professionally trained person in the field of mortuary science, as well as lessen the burden of paperwork some of the departments are now sharing.

Sincerely yours,

Marvin J. Krause

Walsh Mortuaries

Robert Britt, Funeral Director
Member of National Funeral Directors Association
P. O. Box 5
KENAI, ALASKA 99611

SEWARD
Ph: 224-3677

KENAI
Ph: 283-7777

February 10, 1976

Rep. Bob Bradley, Chairman
House Commerce Committee
Pouch V
Juneau, Alaska 99811

RE: House Bill #309

Dear Rep. Bradley;

I am writing to you in regards to House Bill # 309, and I hope your committee will consider these points I have listed before voting.

The first point I want to mention is a single license requirement is needed. If not a single license I am in favor of 1) embalmers license being issued and 2) a funeral directors license issued, as long as embalmers license is received first. I am licensed in this matter in another state. This type of a license system would help eliminate and fly by night operations [illegible]. As a result, only licensed professionals will be working with families and what is best for the [illegible].

[illegible], in remote areas of the state the permits issued, [illegible] for practicing are necessary. [illegible] should be issued in areas where needed.

Third, pre-need sales laws are needed. Funds with these contracts must be able to remain in control of the state and the right to terminate the contract at any time, without forfeiture of any monies paid or earnings accured. There should be a 100% refund made to the family.

Very truly yours,

Robert S. Britt, Jr.
Owner-Funeral Director

February 10, 1976

Rep. Bob Bradley
House Commerce Committee
Chairman
Pouch V
Juneau, Alaska 99811

Dear Bob:

We know that you are getting close to final decisions on House Bill 500.

Please consider the people of the State and the quality of the funeral service practitioner who will be serving them in the future.

Set the standards high, and you'll get the kind of people serving Alaskans that they deserve and are paying for. Set them low and you'll generally attract people of the same low caliber.

The State boards in those states where the requirements are highest are looking at more applicants for licensure than there are positions available. Just contact a few of them to verify this. College trained and educated people don't demand more now - they'll often work for less. One need only look at the example of nurses and teachers to know that this is so.

Please license with a single license. It's the public that [illegible] of fully qualified persons.

Please include the provisions [illegible] that there would [illegible] would be terribly discriminatory.

Our position for a single license, a [illegible] system, and the [illegible] is supported not only by the following [illegible] licensed practitioners:

1. Robert Reid — Reid Funeral Home, Wasilla, Alaska
2. John Welch — Welch Services, Seward, Alaska
3. Hollis Hendricks — Hospitor Dolly Mortuary, Soldotna, Alaska

Evergreen Memorial Chapel, Inc.

737 I STREET TELEPHONE 279 5477
P O BOX 547 ANCHORAGE ALASKA

4. Mary Krause — Prewitt Funeral Home

5. Gene Pruitt — Sitka, Alaska

6. Charley Roselle — Stikine Funeral Homes, Inc.
Petersburg and Wrangell, Alaska

7. Art Moll — Ketchikan Mortuary
Ketchikan, Alaska

8. Mary Lou Bottler — Practiced in Alaska from 1972 to 1974, will return to practice here this summer after two years as an instructor at the State University of New York.

Each of the above will also personally inform the committee of their position.

P. J. Franke
President
Evergreen Memorial Chapel, Inc.
Alaska Licensee

Greg Jerich
Evergreen Memorial Chapel, Inc.
Alaska Licensee

Richard D. Rome
Manager
Evergreen Memorial Chapel, Inc.
Alaska Licensee

David Bonnerup
Evergreen Memorial Chapel, Inc.
Alaska Licensee

Lee Macaleish
Evergreen Memorial Chapel, Inc.
Alaska Licensee

Dale Rosenberg
Evergreen Memorial Chapel, Inc.
Alaska Licensee

Evergreen Memorial Chapel, Inc.

737 E STREET — TELEPHONE 279 5477
P O BOX 547 — ANCHORAGE ALASKA

AGREEMENT

THIS AGREEMENT made and entered into this _____ day of _____, 19__, by and between EVERGREEN MEMORIAL CHAPEL, sometimes hereinafter referred to as "Funeral Director", and _____, sometimes hereinafter referred to as "Beneficiary",

W I T N E S S E T H:

WHEREAS, Beneficiary desires and hereby requests to enter into a contract to provide for payment of funeral merchandise and/or services in advance of death, which merchandise and/or services are to be delivered and performed subsequent to the death of Beneficiary.

NOW, THEREFORE, in consideration of their mutual promises, it is hereby agreed by and between the parties as follows:

1. Funeral Director will supply to Beneficiary out of the funds deposited by Beneficiary the funeral merchandise and/or services specified in paragraph 2 of this Agreement for the sum of $_____, payable as follows:

_____

_____

_____

2. The funeral merchandise and/or services to be supplied under this Agreement are as follows:

_____

_____

_____

3. The sum referred to in paragraph 1 of this Agreement shall be deposited with _____ _____, Anchorage, Alaska, within fifteen (15) days after receipt thereof as a separate trust account in the name of Beneficiary as Trustee for Funeral Director, which account shall be payable to Funeral Director upon the death of Beneficiary. If at the time of the death of Beneficiary, such sum is inadequate to provide for payment for the funeral merchandise and/or services specified in paragraph 2 of this Agreement, then such sum shall be used by Funeral Director to provide funeral merchandise and/or services of a type and quality as nearly similar to the funeral merchandise and/or services specified in paragraph 2 of this Agreement as may be purchased with such sum at such time.

4. Upon the death of Beneficiary, such sum shall be released by such bank forthwith to Funeral Director upon receipt of a certified copy of a certificate of death or other evidence of death of Beneficiary after the funeral merchandise and/or services specified in paragraph 2 of this Agreement have been provided.

HUGHES, THORSNESS, GANTZ, POWELL & BRUNDIN
ATTORNEYS AT LAW
509 WEST THIRD AVENUE
ANCHORAGE, AK 99501
(907) 274-7522

5. Such sum shall remain on deposit with such bank and shall remain intact as a trust fund until the death of Beneficiary or until withdrawal by Beneficiary as hereinafter provided. Such sum may be withdrawn only in full, and not in part, and such withdrawal must comply with the rules and regulations of such bank; provided, however, that Beneficiary may, at any time upon complying with the rules and regulations of such bank, withdraw such sum from such bank in accordance with this Agreement. In the event of withdrawal Beneficiary shall notify Funeral Director within twenty-four hours prior to such withdrawal, and in the event the withdrawal is completed, Funeral Director shall be relieved from any obligation under this Agreement.

6. Any interest which may accrue on such sum from time to time shall be added to and become part of such trust fund.

7. Upon the death of Beneficiary, in the event that such sum shall exceed the sum required to provide for payment for the funeral merchandise and/or services specified in paragraph 2 of this Agreement, any surplus shall be paid to, and become part of, the estate of Beneficiary.

8. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Alaska.

9. This Agreement constitutes the entire agreement between the parties, and no other oral or written agreements, statements or promises made by any party, or by any agent, servant, or employee of any party, which are not contained in this Agreement shall be binding or valid on the parties.

10. This Agreement shall be binding upon the heirs, personal representatives, and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

EVERGREEN MEMORIAL CHAPEL

By _____

By _____

HELS, THORSNESS,
GANTZ, POWELL
& BRUNDIN
ATTORNEYS AT LAW
WEST THIRD AVENUE
CHORAGE, AK. 99501
(907) 274-7522

FOREST LAWN
MEMORIAL
CHAPEL INC.

P. O. BOX 6187 ANNEX - ANCHORAGE, ALASKA 99502

SEWARD HIWAY AT KLATT ROAD TELEPHONE 344-1492

February 5, 1976

Dob

To you, our friends:

The Federal Trade Commission (FTC) has issued what we feel is an unfair indictment against all funeral directors in the United States. The FTC, through power to regulate invested in them by Congress, actually proposes to pre-empt any and all conflicting state laws, which would negate many of Alaska - carefully considered and developed over the years by our own Legislature.

We do not think this was ever the intent of Congress. At this very point in time our own Alaska Legislature is considering and holding public hearings on 3 or 4 bills involving the funeral service profession. If FTC rules were adopted right now - today - these bills would be negated even before they become state law.

We do not think this was ever the intent of Congress. It would appear that there are a minimum of six forms that the grief sufferer would be required to read and sign before a funeral could even take place. Incredible!

Under the proposed rule, to remove the decedent from a hospital, care home, or any other place of death, would be impossible without expressed oral or written consent of the next of kin. This could work a severe hardship on any care-taking institution, state and city police, local coroner, particularly where sudden and unexpected death occurs and the immediate next of kin cannot be located. My 25 years on the firing line with grief tells me that once the next of kin could be located, this would intensify his grief.

A careful analysis of the FTC rule as proposed indicates it will undoubtedly cause the price of funerals to the Alaskan consumer to increase at a time when we are desperately at grips with trying to hold costs down. We think it should be of particular interest to everyone that, with one exception, no complaints have been filed against a funeral director for years. It is also interesting to note that laws governing the practice of our profession and the rights of Alaskan consumers are really working. The satisfied consumer proves this.

We have a heritage of concern for our families because we value them all. Such rules will interfere with this relationship by mandating a blizzard of paper forms be placed between those for whom we are concerned and the Forest Lawn staff.

If you feel as we do - that such rules are unfair, contain no compassion and are unworkable, then we urge you to write to the FTC before February 29, 1976, in our own defense. Your letter should include the statement that you "ask that it be part of the public record", and addressed to: Assistant Director of Rule Making, Funerals, Federal Trade Commission, Washington, D. C. 20580. Thank you!

P.S. Understand FTC rep. will be in Juneau in near future to testify on the above. The rules, if adopted will be just for openers, others will follow till they have us in a corner.

Sincerely,

Alfred O. Kehl

Fred

ALFRED "FRED" KEHL
President

Member
THE ORDER OF THE GOLDEN RULE

DOROTHY E. KEHL
Secretary-Treasurer

George Mason. Carter Mod., Juneau

(g) "funeral director", as used in this chapter, shall be construed to mean a person required to be licensed to practice the profession of funeral directing under the laws of this state, who meets the public, displays and sells or offers to sell funeral supplies for present use and delivery, who plans details of funeral services with members of the family and minister or any other person responsible for such planning, or who directs, is in charge, or apparent charge of, and supervises such services in a funeral establishment, church, cemetery or other place; who enters in the making, negotiation, or completion of financial arrangements for funerals for present need, including, but not limited to, the sale and selection of funeral supplies, or who uses in connection with the profession of funeral directing the words or terms, "funer director","undertaker", "funeral counseler", "mortician" or any other word, term or picture or combination thereof when considering in the context in which used, from which can be implied the practicing of the profession of funeral directing or that the person using such words, terms or picture can be implied to be holding himself out to the public as being engaged in the profession of funeral directing:

NAME	- REPRESENTING -
Raymond C. Slater	University of Minnesota
Joe Allocco	Licensed Practicianer
Richard D Rehe	Evergreen Mem Chapel
Howard S Plumer	AK Allied Funeral Serv. Inc
George M Mason	Northern Lights Mortuary Fairbanks
Marvin Franke	Earle Mortuary Juneau
Morgan L Nelson	Penn A. F. Home
Alfred D Kehl	Bunnell Home Anchorage
Harvey + Leopold	Forest Lawn Mort & Cremetory Fresh.
Sidney D Henderson	Valley Memorial Homes
Rick Simingco	DEPT OF HEALTH & SOCIAL SERVICES
Clifford Berge	Coroner's Office Court / District Court Magistrate
J Sullivan	Wall Spetard Funeral Home
	d.d. [illegible]

*

February 16, 1976

Feb
HB 509

Mr. Robert Bradley
Chairman, House Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Bradley:

I would like to comment on some proposed laws that would enable the funeral service profession to police itself.

I endorse the single licensing law, sometimes called the mortician's license or a license to practice mortuary science. Years ago, as funeral service came into practice, a man or woman undertook specific duties -- hence the name undertaker, funeral director, and embalmer and the necessity for one license. Today funeral service has progressed to a point where one category will and should cover all areas. One should be schooled and knowledgeable in all areas of funeral service to prepare a human remains for disposal, and at the same time deal with a family. Viewing a loved one has a psychological effect on the family. Therefore one who is engaged in the practice of funeral service should be able to preserve, disinfect, and restore the deceased to a life-like appearance to assist the family in the grief process.

The 100% Pre-Finance Trust Law for pre-need funeral arrangements will protect the consumer. All monies in the possession of a funeral director, cemetery, or other person, firm, or corporation should be deposited within thirty days after receipt and in an account that is controlled by the one in trust or by the family concerned. The amount together with accrued interest, if demanded, should be refunded. A funeral director, cemetery, or firm who has possession of such monies has no right to spend that money nor use the accrued interest. There is so much talk about consumer protection. There should be laws that will help protect the consumer.

My last comment is for the support of the bush permit. By awarding bush permits, the State of Alaska has given someone with responsibility the right to make proper disposal of a deceased in areas that are remote and not easily accessible to the city. The responsibility lies with the person who holds such a permit and can be controlled by the State Department of Health. Ideally, a licensed person should carry that responsibility, but we must be realistic about the sparsely settled areas.

You might ask my concern. I practiced in Alaska for two and a half years and have taken an educational leave of absence for the past two years. I am presently an instructor of Mortuary Science at the State University of New York, and expect to return to Alaska next year and to active practice.

Mr Bradley, these laws will not only protect the consumer from unfair practices, but also protect the funeral service profession from unprofessional and unethical funeral directors.

Sincerely yours,

Mary Louise Rottler

Mary Louise Rottler

MLR:dlm

February 16, 1976

Representative Bob Bradley
Room 628
Court Building
Pouch V
Juneau, Alaska 99801

Re: House Bill 500

Representative Bradley,

I am writing to you in regard to House Bill 500, pertaining to the licensing of Morticians. It is my opinion that a single license and high educational standards should be required by the state for the practice of mortuary science. This would serve to protect the consumer at a time, in most instances, when they can not make an objective selection of services because of their grief. Also, a single license to practice mortuary science would tend to reduce the cost of funerals to the consumer, instead of inflating them, because fewer personnel are required to perform overlapping duties.

In addition, it is also my opinion that 100% of all funds submitted by a consumer for a pre-financed funeral, be put into a trust account. This is to guarantee that all of those monies would still be available at the time of need.

In closing, I would like to say that this session of the Alaska legislature has an opportunity to pass legislation that will definately benefit the public a great many years in the future - as well as the present. Your consideration of these comments will be greatly appreciated. Thank You.

Respectfully,

Gregory A. Jorich
Mortician

Evergreen Memorial Chapel, Inc.

737 E STREET TELEPHONE 279-5477
P O BOX 537 ANCHORAGE ALASKA

Office of the Director

UNIVERSITY OF MINNESOTA
TWIN CITIES

Department of Mortuary Science
114 Vincent Hall
Minneapolis, Minnesota 55455

February 13, 1976

Representative Robert Bradley
Senator Ed Willis
Co-Chairmen, Joint Committee on Commerce
State Capitol
Juneau, Alaska 99801

Gentlemen:

Inasmuch as I have been on the road since appearing before your committee on February 6, this letter to you has been delayed, and even now is being dictated by long distance telephone call back to my office where my secretary will type, sign and mail it for me.

May I express to each of you my appreciation for the privilege of having appeared before your committee. I trust that the testimony was helpful as you proceed to draft the final copy of your licensure bill for the practice of mortuary science.

I have in the interim requested Mr. Thomas H. Clark, General Counsel for the National Funeral Directors Association, to forward to Mr. Berrier a twelve-page compendium of judicial review relative to the court tests on the 100% pre-made statute. I had occasion to visit with him by telephone, and he offered to be of whatever further assistance was possible.

I have also researched and found that thirty-six states now have the type of disclosure requirement that you have in the law, including a declination of services not desired, and it is working well for them. My major concern in a strict itemization mandate would be the increase in the total cost of funerals to the consumer.

I trust that in your markup session you will give serious consideration to a single license, which would appear to meet the needs of Alaska much more efficiently than dual licenses. Due to the demography of Alaska, the whole man concept is most appropriate.

In regard to reciprocity, I think you should consider carefully whether or not you insert the word "or" between the first two guidelines. I think it would be much more appropriate if both of these were used rather than one or the other.

Having been involved in education and licensure for the past quarter of a century, I am most concerned that the consuming public have the greatest amount of protection from the licensing laws which are designed for their ultimate good.

Thank you once again for the privilege of sharing my thoughts with you.

Sincerely,

Robert C. Slater
Professor and Director

RCS:kn
cc: Mr. Billy G. Berrier
Representative Helen Beierne

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH V STATE CAPITOL
JUNEAU, ALASKA 99801

M E M O R A N D U M February 18, 1976

SUBJECT: Rome's Letter dated February 14, 1976 Concerning House Bill 509

TO: Representative Bob Bradley BB

FROM: Billy G. Berrier
Director, Legal Services

Attached is a copy of the letter from Richard D. Rome concerning the reciprocity provisions of House Bill 509. He is, of course, incorrect in assuming that the "or" to which he refers is an accidental drafting error. As you will recall this matter was discussed and a clear decision was made that there be two types of admission by reciprocity. This is implemented by the language in 08.42.070(a)(1) in that section:

> (1) allows admission by reciprocity, simply on a showing that the applicant is licensed in a state with requirements substantially equal to the requirements of this act.
>
> (11) is an alternate to this requirement and sets out specific criteria that is required if the applicant is from a state in which the licensing requirements are not substantially equal to the requirements of this chapter. One of the requirements in the latter case is at least one year practice in another state prior to the date of application.

This is, of course, of a policy decision and the policy question was specifically raised and discussed at the committee workshops, and at one of the workshops it was specifically pointed out that many states, including California, do not have legal requirements adequate to qualify an applicant. Of course, the specific question of inclusion of the word "or" at the end of line 23 on page 4 was not brought up. However, an "or" would clearly be implied in context since if these were read conjuctively instead of disjuctively they would make absolutely no sense. The "or" is therefore simply good drafting technique.

If as a policy matter, it was decided that reciprocity would only be granted to applicants from states with educational requirements equal to the requirements in this chapter. The entire alternative section would have to be deleted.

BGB:smh

Attachment

cc: Senator Ed Willis

SPENARD HEIGHTS MORTUARY and CREMATORY
3804 SPENARD ROAD • SPENARD, ALASKA • 279-3741

February 14, 1976

Mr. Billy Berrier
Legislative Affairs Office
Capital Building
Juneau, Alaska 99801

Dear Mr. Berrier:

There has been much discussion on HB 509 relevant to the requirements that an applicant for licensure must first meet to obtain a license to practice in Alaska. We have discussed at great length the amount of college credits, type of courses, examinations and apprenticeship requirements. This is good, and I think has proven fruitful in making some important decisions.

There is one small word, the word "or" placed at the end of section (a)(1) of 08.42.070 RECIPROCITY, that renders the whole licensure requirement question moot!

What this "or" does is take away all of the educational standards from the license for those who wish to practice in our State by reciprocity. They do not now have to meet requirements substantially equal to the requirements of this bill. They need only be 18 years of age, not convicted of a felony, be licensed in another state (any state) and to have practiced in that state for one year AND pass the examination on our Vital Statistics law, the provisions of this chapter and the regulations promulgated by the department under this chapter.....

As you know, 100% of all license presently held in Alaska come either from reciprocity or grandfather rights. Not one person has taken the State examination in obtaining his license here. This is a trend that will not suddenly cease to exist. There will be no, or few, applicants for examination in the coming years. All those seeking licensure here will continue to do so through reciprocity. With a whole in our reciprocity law so large you could drive a truck through it we do a dis-service to the public by allowing it to exist.

We have three alternatives as I see it. 1. Take out the "or". 2. Add under (b) of section 08.42070 the requirement to pass the examination provided by the Conference of Funeral Service Examining Boards of the United States. 3. Require simply that a person desiring license hold a "legal license" from another state, and that that license was obtained by examination rather than by a grandfather clause or by reciprocity.

To do anything but one of the above three would be a great injustice to the public.

other side....

Sincerely,

Richard D. Rome

cc: Fl Wills & Bob Bradley

I talked with Lee Moeglein about this - neither one of us ever remembers any discussion about putting in that "or" in any of the hearings we attended. Hopefully it is an oversight and that you really did not indend to keep it or put it in the final draft of HB 509. It's really a baddy!

Thanks for listening.

Dick Pome

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M March 1, 1976

SUBJECT: HB 509 - Mortuary Science

TO: Representative Bob Bradley, Chairman
House Commerce Committee

FROM: Billy G. Berrier, Director BGB
Legal Services Division

You have asked for a summary and analysis of the changes between the CS for HB 509 drafted for the Commerce Committee and the proposed CS for HB 509 drafted by the Mortuary Science Subcommittee of the Legislative Council. The changes made are:

1. On page 2, lines 4, 5 and 6 of the proposed CS, language reading "This person must have taken and passed an examination conducted by the Department in the subjects set out in sections 60(a)(9) and (10) of this chapter" was deleted. This change was made in conformance with testimony at the hearing to conform to existing practices and in recognition of the fact that other state law adequately provides for the measures which had been required. The primary other law is that when a person dies without medical examination a coroner be called in. It was pointed out at the hearing that if the sentence remained in, in many small villages there would be no person who could arrange for the care and disposition of dead human bodies. (This language would have appeared following the period in line 4, page 2 of the Committee CS)

2. On page 4, in section 08.42.070, the reciprocity licensing provision was changed substantially. Under the provision in the proposed bill, a person who met certain of the criteria, not including the educational criteria, and who had practiced in another state for one year, could be admitted by reciprocity. The effect of the change is that a person admitted from another state must meet all of the criteria, except for the examination and apprenticeship.

3. On page 5, line 29, and page 6, lines 1 and 2 of the proposed CS, using profane, indecent or obscene language in the immediate hearing of relatives of the deceased as the grounds for refusal to issue or renew licenses or for suspension or revocation was deleted. (This

language would have appeared following AS 08.42.090(6) on page 5, line 27 of the Committee CS.)

4. On line 28, page 6, the word "if" replaced the word "whether" and on line 1, page 6, the phrase "or sales made on a pre-need basis" was added. Questions were raised at the hearing that the proposed language could be interpreted to forbid pre-need sales. While this was not the intent of the proposed language, the new language is much clearer. On line 5, page 6 of the proposed CS, the word "general" was deleted. The effect of this would be to allow advertising, including price advertising. (This would have appeared between the words "prohibit" and "advertising" on line 29, page 5 of the Committee CS.)

5. On page 7, the definition of mortuary science in section 08.42.110(3) was narrowed. The primary effect of this narrowing is to exclude the operators and crematorians from the licensing requirements of this bill.

6. On page 8, lines 5-20, an itemization of services taken from the proposed FAA rules, was added making the disclosure of costs considerably more specific.

7. On page 9, lines 12 and 13, under the pre-need section, the sentence "cemetery lots and markers are not properly included in this paragraph" was added. Again, this addition was made to accommodate the question raised by cemetery operators who felt that otherwise there was an ambiguity in this section. This does not change the intent of the section.

BGB:bh

"An Act relating to funerals and the practice of mortuary science; and providing for an effective date."

COMMITTEE REPORT

HOUSE

Mr. Speaker: Date _____

The Committee on _____ has had _____

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

February 27, 1976

Mr. Harvey Lapin
100 N. LaSalle Street
Suite 200
Chicago, Illinois 60602

Dear Mr. Lapin:

Regarding the information you requested on House Bill No. 509, Mortuary Sciences.

I have enclosed a copy of the Committee Substitute for House Bill No. 509 for your perusal.

The Commerce Committee members are as follows:

Senate: Jalmar Kerttula, Chairman; Edward Willis, Vice Chairman; Robert Ziegler, Sr.; Mike Colletta; W. E. "Brad" Bradley

House: R. E. "Bob" Bradley, Chairman; Tim Wallis, Vice Chairman; Ramona Kelley; Helen Fischer, Rick Urion; Lisa Rudd, Joe McKinnon; Oral Freeman; Leo Rhode

If you need any further information, please do not hesitate to contact this office.

Sincerely,

Terry Berman, Administrative Assistant
House Commerce Committee

Enclosure

JOINT HOUSE & SENATE COMMERCE COMMITTEE MEETING
HB264, HB271, & HB509
MORTUARY SCIENCES
February 6, 1976

The Joint House and Senate Commerce Committee meeting on HB264, HB271 and HB 509 was called to order by the Chairman, Representative Bob Bradley.

The Chairman requested that the prime sponsor, Representative Helen Beirnes testify first. Rep. Beirnes testified that a committee of two, Senator Ed Willis and herself, along with Mr. Berrier of Legislative Affairs had held meetings during the summer to hear public opinion of the practice of mortuary science. She stated that she did not wish to testify on any particular points at this time. She did wish to publicly thank Senator Willis and Mr. Berrier for the time they spent on this bill during the summer.

The Chair then asked Senator Willis if he wished to say a few words in regard to the bill and the proposed Committee Substitute to House Bill 509.

Senator Willis stated that there were many policy decisions made as a result of the interim committee meetings held last summer. The areas which major policy decisions were made were concerned with the dual licensing and the pre-need sections. He asked that the committee hear testimony with an open mind and that the two areas he described would have to be considered.

Chairman Bradley they call the first witness, Mr. Lee Moeglen of Evergreen Memorial Chapel in Anchorage. Mr. Moeglen stated that before he introduced a guest witness, Dr. Slater, he wished to make a few comments. He stated that he and Richard Rome, both of Evergreen Memorial Chapel, had retained legal counsel to assist them in writing a bill which would regulate the practice of mortuary science. Their purpose in having such a bill drafted was due to the inadequacy of present statutes which establish the lowest standards in the nation. After considerable research they decided to write the bill themselves and wished to publicly thank Representative Helen Beirnes for sponsoring the bill. They were pleased with the results of the bill and the subcommittee meetings. Educational standards were good and penalties were stiff as they should be. They were however, disappointed on the decision to include dual licensing. The original bill called for one license and the purpose for this was simply less cost to the State and the practioners. They had asked for proof of need for dual licensing and had not received any answers. Senator Willis had explained that he felt the need for two due to they were two completely different skills. Mr. Moeglen stated that this was difficult to agee to. In many areas of the state it was hard to substantiate one let alone two. It was impractical to have only one of the skills. In larger metropolitan areas it was possible. Who were we writing the bill for; the licensee or the public? Should be the public. Less than two years ago the trust between the public and the practioner was broken. He felt that there was a need to prevent this from happening again. Mr. Moeglen gave an example of a friend who was just an embalmer in Viet Nam. The friend stated that he would never again be just an embalmer because he lost touch with the public. There is a need to have the clincal background to explain problems to the

family. Why not go first class on this and what was best for the public. The administration of dual licensing could require twice as much work and cost for enforcement. The National Joint Committee on Mortuary Science report stated that a person who practices embalming must include the skills of a funeral director. He asked Senator Willis and Representative Beirnes is this was wise. Mr. Moeglen then introduced Dr. Robert C. Slater, Education Director of Mortuary Sciences at the University of Minnesota. Dr. Slator was an educational consultant for the National Funeral Directors Association since 1962. He came not as an outsider but a person interested in helping get the best possible legislation for Alaska.

Dr. Robert Slater was welcomed by Chairman Bradley on behalf of the committee.

Dr. Slater thanked the Chairman and stated that he was pleased to be here making this the fiftieth state he had appeared in to speak to legislation such as this. He stated that he did not have any written statement because he had just received a copy of the proposed committee substitute. He stated that the committee represented a state which was starting from scratch, an advantage over other states. He looked at all licensing as being for the public interest first not for the licensee. The public was aware of the legislative process and the restrictions placed on their way of life. The public was aware of what they were entitled to. Also he wished them to consider why they were licensing. That it was not just for the licensee. There was more to funerals than the selling of plots, etc. but the service too. With that in mind, you must remember that you represent many people who come from different ethnic groups, religions, and traditions. You must consider the entire funeral when you consider the licensee. When you consider the educational requirements consider three things: what existed prior to the day this becomes law, what exists today and write the law for tomorrow. There is a great deal of concern over the educational requirements. People consider what is now and not what they should have for the future. You cannot think of this group as not needing education; the kind of education basic to every citizen. Education does not, however, make a person qualified but is a big part. Citizens select a person who is involved in total. Now there is more interest in the mental health of the people. You must speak to the constituents and what they assume when they talk of death services. He then stated he would speak to consumer protection section. It should be disclosed in the act. People are concerned and entitled to full disclosure. The pre-need section he had strong feelings about. He suggested that there are a great number of people who consider death and want to pre-arrange and pre-finance. The consumer should have total control over pre-financed arrangements.

Representative Wallis questioned Dr. Slater if he was under the impression that one person could not be licensed as a funeral director and an embalmer?

Dr. Slater stated that he was not.

Rep. Wallis felt that his testimony was slanted to give the impression of that belief.

Rep. Kelley questioned Dr. Slater as to his thoughts on the disclosure of costs. Did he feel it went far enough. Did he feel that it should be a lump sum or broken down?

Dr. Slater replied that he felt it should be inclusive to a point of serving the public. He was concerned, however, that itemization tends to increase costs.

Rep. Kelley expressed her concerns over the paragraph which deals with holding a conference with the family before service is performed. She asked if this shouldn't be clarified.

Dr. Slater stated that a conference is generally held before the funeral service is performed; not before any service is performed.

Chairman Bradley questioned Mr. Berrier as to clarifying this paragraph so that emergency services could be performed. Berrier concurred.

Rep. Sullivan asked if Dr. Slater knew how many states have more disclosure .

Dr. Slater replied that six states have itemization; New Jersey, New York, Minnesota, Colorado, California and one other which he could not name. New Jersey, New York and Minnesota law states that they must specify the cost per item. In California, Colorado and one other they are required to list cost per item if requested by the family.

Rep. Sullivan question what it is that makes itemization more costly?

Dr. Slater explained that it was a matter of economics. The cost is including profit. When a lump sum is given the profit margin is spread over all items.

Sen. Willis asked if as Dr. Slater reviewed the bill did he find any sections which could be construed as restraint of trade?

Dr. Slater suggested that the question was more a legal one. However, when a pre-need clause requires 100% in trust you automatically allow only those businesses who do not need to live on pre-need sales. If this had been considered restraint of trade it would have already been tested in court in other states. To his knowledge it had not been.

Rep. Kellquestioned the line on page 2 line 26 which states, "as suitable and desirable". Shouldn't the problems be more defined and what did Dr. Slater feel should go in there.

Dr. Slater replied that he believed that regulations should be more specific and not statutes. That statutes were harder to amend than regulations and it would be easier as future changes are needed.

Rep. Rudd referred to page 3, the paragraph which list the subjects which the exam would be based on. You would assume that this would dictate what courses one should take.

Dr. Slater stated that this was sound procedure.

Rep. Sullivan directed a question to counsel as to if the bill contained a grandfather clause for those who currently hold licenses.

Mr. Berrier referred to page 2 sec. 020 which is the section pertaining to this.

Chairman Bradley questioned Mr. Berrier if the effective date in line 28 was also tied to the effective date of line 26 of page 2. Berrier replied that it couldn't be due to the fact that presently a funeral director was not required to be licensed.

Chairman Bradley continued questioning page 3 paragraph 5 and 6. He felt that with the small market for this type of service in the state the on-the-job training could limit the market further.

Dr. Slater replied saying that it could be limiting, however, this was not a common thing in states which require on-the-job training. The number of deaths are limited so the career is also limited. Under due process of law there could be a good case if someone was denied. He had not seen this happen.

Rep. Sullivan stated that in some trades where on-the-job training is required places do require that a person sign an agreement stating that they will not open a business of their own for at least one year. Does this happen in other states?

Dr. Slater could not recall any states which this has happened.

Mr. Ben Marsh was called to testify. Mr. Marsh stated that he was President of the Alaska Planning and Management, Inc. and that he was speaking as a layman not representing anyone. He stated that he had done studies on the subject on behalf of Allied Funeral Services. They as a group felt this was good legislation and should be passed. There should be stiff regulations to follow. They did support dual licensing, as they felt that one was not necessarily qualified to do both jobs. He stated that several members of the organization were here to testify on specific sections. He wanted to comment on a couple of sections. Section 020, line 18 the word funeral director was confusing. It states that they cannot engage in the activity of mortuary science without a license. Chairman asked that he explain further the question. Mr. Marsh stated that he felt it prohibits funeral directors from certain activities.

Mr. Berrier explained that it does give certain limitations.

Mr. Marsh stated that Section 070 paragraph 1 and 2 seem to say the same thing. If paragraph 2 was deleted and the word "and" added it would be clearer.

Mr. Berrier stated that there was a difference. Some states have requirements equal to this chapter, however, some states do not have the educational requirements. Paragraph 2 sets out the requirements and adds the educational and on-the-job training requirements.

Mr. Marsh asked if you must comply with both or just one. Mr. Berrier stated that it could be one or the other.

Mr. Marsh referred to Section 12 on page 6. It seemed to him that when grounds are made for violation and you include the regulations you don't know what the regulations will say. He felt that regulations do not stand up in court. Also the word "contract" was not understandable. Berrier replied that regulations do have the force of law and are very important especially in this section where it applies to health.

Mr. Berrier stated that the contract part was brought in because of the section on pre-need. It was the feeling that there would be ethical violations in pre-need contracts so this was included.

Mr. Marsh questioned whether or not this would preclude the solitation of government contracts in advance. Berrier replied he did not know.

Mr. Marsh stated that under Section 100 there was nothing which would preclude a person from operating a funeral parlor in their home. Mr. Berrier answered that current regulations cover this aspect. The Department of Health and Social Services have the expertise in this and this was left to be put in regulations.

Mr. Marsh questioned the reason for not putting in the bill what the fee would be for a license. Mr. Berrier stated that this would be the responsibility of the Department of Commerce.

Rep. Sullivan question Mr. Marsh concerning page 5 the last line which pertains to obscene language. She stated that it left her uneasy and felt that it was not appropriate.

Mr. Marsh replied that the language was very broad and vague, however, the Board of Allied Funeral Services was not concerned with it.

Rep. Sullivan stated that she understood certain authorities rotated with businesses for emergency cases. How would a new business get in on this rotating and notify the authorities they were available. Would this be construed as a violation of Section 9 page 6.

Mr. Marsh replied that they did not think so because it goes through the coroner's office and you would not be dealing with relatives.

Rep. Rudd asked about cremation and she assumed that they were included. Was it intended that they be included.

Mr. Berrier stated that it came before the committee about crematories and whether they should be licensed. They had decided not to because they do not necessary involve funerals.

Rep. Rudd continued that the sections seem to include them but them again leave it in limbo. They are establishments which handle dead human bodies.

Mr. Marsh replied that he did not know of any crematoriums which are not associated with a funeral home.

Chairman Bradley asked if Dr. Slater could perhaps give an explanation on the crematory question. Dr. Slater stated that in most incidences they are not included under the licensing and are under the Health department.

Rep. Rudd asked if there are any particular skills involved in the act of cremation and that it might be advisable to regulate it. She believed it should be registered with the health department but to insure it is registered to protect the consumer if there is a specific skill involved.

Mr. Lapin stated that in the states of Washington and Oregon crematoriums were not licensed. Most of the laws deal with the identity of the person before cremation.

Rep. Rudd stated that if we are covering it already somewhere it should be spelled out.

Mr. Harold Plummer was then requested to give his testimony. Mr. Plummer stated that he was from the Northern LIghts Mortuary in Fairbanks and wished to speak on the section concerning education. He stated that one point everyone agrees on is that we are to serve and protect the public. Education does not necessarily mean an ultimate prerequisite. Education is necessary but one year of college would be sufficient not two years.

Mr. Arthur S. Richmond was called to introduce Mr. Harvey I. Lapin. He introduced Mr. Lapin by relating Mr. Lapin's qualification and past experience in legislation pertaining to mortuary science.

Mr. Lapin stated his prime reason for testifying was the section of the act which has the effect of eliminating the pre-need market. Section 8 on page 6 line 2 was intended to cover body snatching activities. The way it is worded it stops solicitation in advance of need. In the state of Indiana, the Embalmers Board had tried to evoke a license for this. He recommended a change in the language by adding "immediately before or after death." Also after the word "advertising" add "or sales made on a pre-need basis". This would then not prempt pre-need. Section 9 has the same effect by precluding the hiring of personnel to solicit pre-need. He recommended that the language be limited to the impending death area. Section 10 has the same problem and "immediately before impending death" also be added. Section 11 needs a language change. What is being talked about here is to prohibit a kickback and prohibits them from offering their own property for a site. After the word "body" insert "immediately before an impending death or after death". After the word "cemetery" add "provided, however, nothing shall prevent the recommendation of solicitation of sales or merchandise in a specific crematory, cemetery, or mausoleum if said licensee has ownership interest in said cremetorium, cemetery, or mausoleum and ownership is disclosed." The trusting provision at the end of the bill on page 8, is clear on the prohibition of the pre-need market. No one is going to sell on a pre-need basis if 100% must be put in trust when they have to pay commissions, salaries, etc. People have the right to a refund of 100%. Why does the public not have the same obligation to the cost of merchandise which is not 100%; some of that is profit. If the people want pre-need services at a fixed sum, why not put the sa[illegible] responsibility on the public for the cost of the merchandise. Trust accounts should be the actual cost only. If there is any doubt, could check with insurance companies. If they were to put your money in trust there would not be insurance. This could be considered restraint of trade. The state of Illinois is now in the process of changing their statutes. There are other alternatives to 100% trust performance bonds, etc. If they are actually to be 100% trust, then it is not complete. The section does not go as far as it should. Do they have to put each on in a separate account, what happens if they don't (no enforcement clause) and no real administration provisions are included. I have given Mr. Berrier copies of other states statutes. The purpose of pre-need is to give the customer an alternative to at-need.

Mr. Rick Siangco, State Coroner and Magistrate for District One then testified. His main concern was for the bush area where they do not have a mortuary. As far as the Vital Statistics Act goes, the State Coroner has the authority. He then referred to Title 12, Death Declaration and Title 18, Death Certificate which allows the Coroner to perform such duties. It is also included in the Administrative Code 7. Section C of the bill should be amended. This is already covered under other parts of the law.

Mr. Berrier replied that the committee recognized the problems and he felt that if the second sentence was deleted it would suffice.

Mr. Siangco felt that the whole section should be deleted, the present law covers the permit holder. The magistrate does issue permits.

Mr. Richard D. Rome, of the Evergreen Memorial Chapel in Anchorage, then testified. He stated that Section 3 was recommended by Consumer Protection, the Attorney General's Office, and the Council of Better Business Bureau. It was for protection of fraud. The pre-need plans must be closely protected. He then recited an example of the needed protection of a case in Fairbanks. The public needs incentive and advantages to pre-planned arrangements.

Mr. George Mason of the Carter Mortuary in Juneau then testified. He stated that the bill needed more definitions. He then offered a definition of a funeral director. He stated as follows:

> "(g) 'funeral director', as used in this chapter, shall be construed to mean a person required to be licensed to practice the profession of funeral directing under the laws of this state, who meets the public, displays and sells or offers to sell funeral supplies for present use and delivery, who plans details of funeral services with members of the family and minister or any other person responsible for such planning, or who directs, is in charge, or apparent charge of and supervises such services in a funeral establishment, church, cemetary or other place; who enters in the making, negotiation, or completion of financial arrangements for funerals for present need, including, but not limited to, the sale and selection of funeral supplies, or who uses in connection with the profession of funeral directing the words or terms, 'funeral director', 'undertaker', 'funeral counselor', 'mortician' or any other word, term or picture or combination thereof when considering in the context in which used, from which can be implied the practing of the profession of funeral directing or that the person using such words, terms or picture can be implied to be holding himself out to the public as being engaged in the profession of funeral directing:"

Mr. Marvin Krause, of the Prewitt Funeral Home in Sitka testified. He felt that the requirement of two years of college would hamper the smaller communities. He stated that the requirements were above those in the lower '48. He suggested that this be changed to one year of college.

Margaret Witzleben, of the Bruce Funeral Home in Anchorage, then testified. She stated that she was representing her husband and his associate in regards to this bill. She offered many resources as to a good definition of a "funeral director" and stated that she would copy them for the committee if the committee wanted. She stated that duel licensing would not hinder the profession but broaden it. They should be two separate licenses. She then referred to sections of the bill which she felt need explanations. In section .020, did "restore" mean that a beautician cannot apply cosmetics? On page 4, Section .070, it was confusing as to what is being required. She concurred with Mr. Lapin that on Page 6, referring to solicitation restriction, the word "imminent" would satisfy. She stated that she was personally concerned on the disclosure section. She felt it was not inclusive enough. She also stated that she was opposed to the 100% trust because banks had denied her establishment to do this.

The next person to testify was Alfred Kehl. President of Alaska Allied Funeral Service Association, and owner and operator of Forest Lawn Mortuary and Crematory in Anchorage and Kehl's in Palmer. He stated that he was in favor of dual licensing and according to a survey done by the National Funeral Directors Association, they too supported this. The educational requirements of two years makes it hard for the smaller communities. He stated that HB 509 needed more definitions. He recommended the definition used in the California state statutes.

Mr. Arthur Richmond, of the Valley Memory Gardens in Anchorage testified that if 100% was included in the bill it would put him out of business. He puts approximately 65% into trust for his pre-need arrangements. He is auditied every year to determine if the trust account has enough in it to cover the outstanding contracts. He stated further that his company does solicit pre-need contracts by the use of post cards.

The question was raised as to the difference between what Mr. Richmond does and burial insurance.

Mr. Richmond explained that burial insurance provides a certain amount of money at the time of death. If a man at the age of forty has a heart attack and decides he wants to increase his insurance so that his family will be taken care of in case of death, they tell him that he can make payments at this time and at the time of death they would take care of it for him without extra cost. He further stated that this is being done in alot of states and to his knowledge no one had had any problems with it.

A question was asked of Mr. Richmond that when a contract is sold he cannot offer the ultimate service, therefore how could he guarantee to the families that the service would be provided somewhere down the line.

Mr. Richmond reversed the questions and asked if any funeral home would deny any business he offered them.

The question was raised what happens if a family moved away.

Mr. Richmond answered that it is written in the contract that if the family moves away they are to advise his company so that arrangements can be transferred. They transfer the cemetary lots, the vaults and

and the markers through the National Cemetary Association. In regard to the funeral portion, we contact someone in the area to perform the type of services which they have purchased and pay them for that service. We find also there are times when families move away and don't let them know. That is why they ask them to be sure that they carry the card issued to them which states they have purchased the service from them.

The questioned was asked what if pre-need is allowed to continue what he felt about adding restrictions.

Mr. Richmond answered that he would welcome that very much. It would help them and the public.

Mr. Sid Hiederdorf, Acting Chief for the Environmental Mental Health Division of the Department of Health and Social Services then testified. He gave each member of the committee a copy of the division's position paper on the bill. He then stated that they strongly supported the Section .010 which placed the licensing in the Department of Commerce. They have felt for a long time that it was improper that they be involved in occupational licensing. He then reviewed the position paper (see attached).

A question was raised from a health standpoint concerning the scattering of ashes after cremation.

He replied that there was no health problem with them. There were no regulations in Alaska concerning this.

Mr. Kehl replied that cremation does not bring the body to complete ashes. It leaves fragments of bone structure which are then cut up with a special tool. There have been cases sighted where the public has run across these scatterings and recognized them as human bones. The countries who generally promote cremation, Switzerland, England all have laws which cover the disposition because of this problem. California also has laws regarding scattering due to the recognizable bone fragments.

Mr. Hiederdorf then asked if he could read a part of the bill which was prepared by the Department of Law last year. The draft bill has great detail on the section such as trust funds and pre-need. Chairman Bradley requested that copies be made of the bill for closer inspection.

Sharon Andrews, Director of Occupational Licensing for the Department of Commerce then testified. She stated that the administration has taken the position at this time that there are certain problems with occupational licensing and that they are substantial and growing. They are generally opposed to additional licensing until the statutes can be reviewed. The department has made a proposal and introduced a bill to create a credentially review board who would be responsible for establishing guidelines. They would prefer that this not be enacted. Their position is that they don't need regulation of the funeral industry. They are not sure this is the right means of doing it; there is a need to not overregulate. She then referred to the bill itself citing Section .130 was related to Section .010. In .010 it makes the Department of Commerce responsible for adopting regulations and under Section .130 it makes the Attorney General's office responsible. These two sections to me means that we have split the enforcement. A technical point on Section 2 and 3 of the bill, article 4, Title 45.

In its present form it is considered to be completely unworkable, because there is no penalty. They are required to provide the cost but there is not a penalty if he does not. The recommendation to correct this was that there be a fourth section added to the bill which would amend Chapter 50 of Title 45, and make it an unfair trade practice, and a violation of this. Also there are no provisions in this bill for ministers who often counsel or make funeral arrangements for the family.

Chairman Bradley thanked all who had testified and declared the meeting adjourned at 4:25 p.m.

POSITION PAPER/Department of Health and Social Services

POSITION PAPER
ON
CS FOR HOUSE BILL NO. 509

An Act relating to funerals and the practice of mortuary science.

This bill establishes qualifications for, and the licensing of, embalmers and funeral directors, transfers licensing responsibility of embalmers from the Department of Health & Social Services to the Department of Commerce and Economic Development, covers reciprocity in licensing and sets grounds for suspension and revocation of licenses. The bill also requires permits to operate a funeral establishment, requires disclosure of funeral costs and covers the establishment of trust funds for prepaid funeral plans.

This bill will transfer licensing responsibility of embalmers from the Department of Health & Social Services to the Department of Commerce and Economic Development. Responsibility for environmental health sanitation inspections of funeral establishments will still remain with the Department of Health and Social Services. Based on past experience in licensing approximately 65 embalmers and other related administrative responsibilities, this bill will relieve the Department of Health & Social Services of roughly two-man months of clerical time and one-man month of professional staff time.

House Bill 509 will have no fiscal ramifications for the Department of Health & Social Services Responsibility for sanitation inspections will continue and time presently spent in licensing can be more effectively used in handling administrative aspects of other environmental health and sanitation programs.

The following general comments are provided with respect to this bill:

1. No reference is made to license fees for embalmers, funeral directors or the funeral establishment permit. We recommend that license fees be established by statute. For example; embalmer $25.00, funeral director $35.00 and funeral establishment permit $50.00.

2. Page 2, line 1. Delete the word "shall" and substitute the word "may". The department should have flexibility in deciding whether or not to hold an examination. Our experience has been that the need for an examination to be held in Alaska with its reciprocity provision is seldom, if ever.

3. Page 2, lines 11, 12 and 13. There is presently no requirement for how long the person submitting the affidavit must know the applicant. We have faced the problem in licensing embalmers where an individual may submit an affidavit after having known the applicant for only a few weeks. We suggest that this be increased to at least a minimum of one year.

4. Page 2, line 29, refers to an apprenticeship. The State presently has no regulations governing an apprenticeship program in the practice of mortuary science. We believe this is a desirable program, however, the Department of Commerce should be given authority to develop regulations to cover an apprenticeship program.

5. Page 6, Section 08.42.100. FUNERAL ESTABLISHMENT PERMIT. We recommend that the Department of Commerce be required to obtain the approval of the Department of Health & Social Services for sanitary aspects of an establishment before issuing a permit under this Section. Also, violation of the sanitation provisions of the Department of Health & Social Services should be considered sufficient cause for suspension or revocation of the funeral establishment permit.

6. Page 7, Section 45.45.120. DISCLOSURE OF COSTS. We fully support a requirement for disclosure of costs. As a minimum, we recommend a statement include the following:

   a. The date

   b. The signature of a licensed funeral director

   c. The name of the deceased and the date of death

   d. The relationship to the deceased of the person making arrangements

   e. The price of the funeral along with a list of the following items with a price given for each item, if appropriate:

      (1) professional services including those of the funeral director and staff and assistance for carrying out all details in connection with the services, arrangements and supervision

      (2) care of the deceased including embalming and other preparation

      (3) facilities including rooms and/or chapels

      (4) equipment provided such as automobiles

      (5) merchandise including caskets, outer receptacle and clothing

7. Page 8. The provision relating to pre-need funeral arrangements is endorsed by the Department of Health & Social Services. There are no laws presently in existance which protect the investment of an individual if he changes his mind or moves to an area which does not have a funeral establishment with a cooperative arrangement with the trustees. We recommend that an additional provision be added to require that the trustee keep records available of all agreements with names and addresses of each payer, the dates and amounts of each payment made, each withdrawal and the name of the bank or trust company. The authority must also be given to the enforcement agency to have full right of inspection of these records at any time deemed advisable.

8. We recommend that this bill include a provision which authorizes the Department of Commerce and Economic Development to promulgate regulations covering the operation of a cemetery, a mausoleum and a crematorium as well as disposal of ashes following cremation.

The Department of Health & Social Services supports CS for HB 509, with the changes recommended above. We strongly support the move to transfer licensing responsibility to the Department of Commerce where it rightfully belongs, the dual licensing concept of an embalmer and a funeral director as well as the provisions for disclosure of costs and protection of trust funds for pre-paid funerals.

Recommended By: _____ _____
Acting Director (Date)
Division of Public Health

Approved By: _____ _____
Commissioner (Date)

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

HB

524

"An Act relating to the practice of podiatry; and providing for an effective date."

COMMITTEE REPORT

HOUSE

Mr. Speaker: Date _____

The Committee on _____ has had _____

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

February 4, 1976

Representative Bob Bradley, Chairman
House Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Bradley:

The Alaska State Medical Association doubts that it is necessary to have special licensing of podiatrists since there are only five to six such practitioners in Alaska.

We would rather not have them included under Chapter 64 of Title 08 which is physicians and osteopathic physicians since it suggests in a way that they are M.D.'s or D.O.'s. They have had far less training than either M.D.'s or D.O.'s. If they insist on licensing as independent professionals, let them have their own chapter and board.

We have no strong feelings about House Bill 524.

Sincerely,

Rodman Wilson, M.D.

Feb 4, 1976

Rep Bradley: Re HB 524 Podiatrists

The Alaska State Medicae Association doubts that it is necessary to have special licensing of podiatrists since there are only 5-6 such practitioners in Alaska.

We would rather not have them included under Chapter 64 of Title 08 which is physicians and osteopathic physicians since it suggests in a way that they are MD's or D.O.'s They have had far less training than either MD's or DO. If they insist on licensing as independent professionals, let them have their own chapter + board.

We have no strong feelings about HB524

Rodman Wilson, MD

TELEPHONE 279-3942

H. D. KINGLAND, D. P. M.
PODIATRIC MEDICINE

MEDICAL ARTS BUILDING
207 E. NORTHERN LIGHTS BLVD.
ANCHORAGE, ALASKA 99503

January 2, 1976

Hon. Glenn Hackney
Representative - Alaska State Legislature
1136 Sunset Drive
Fairbanks, Alaska 99701

Dear Sir:

It was near the end of the '75 session of the Legislature I learned of your interest in legislation regulating the practice of Podiatry. Mrs. Karen Krause, Licensing Examiner, Division of Occupational Licensing, Department of Commerce, sent me a copy of the work draft of your proposed bill and a copy of the Medical Practice Act. I think your bill, as written, is most excellent and gives the public and profession the protection so long needed.

To my knowledge, there are presently no unqualified persons attemping foot care and for Podiatry to be included, now, in the Medical Practice Act would preclude the "blanketing in" of any such persons under a grandfather clause.

Please let me know if I can supply you with any information or materials relating to Podiatry or, in any other way, be of help. I can come to Juneau at any time should you so advise. I have practiced Podiatry in Alaska for the past 29 years and currently hold license in Illinois and Oregon. I wish you all success. Podiatry will forever be in your debt.

Sincerely,

H.D. Kingland, D.P.M.

HDK/jk

Alaska State Legislature

House

JUNEAU ALASKA

HESS COMMITTEE MEETING

JAN 26, 1976

Present: Osterback Ostrosky Ose
Parr Davis
Hackney Beirne

Testifying: Sharon Andrews, Director, Occupational Licensing
Dept. of Commerce HB 524

HB 524 - Practice of Podiatry Hackney

Hackney - explanation of why there is a need for the bill in Alaska states that there are about six practicing podiatrists, feels they endorse this bill.

Sharon Andrews - opposes this bill because licensing needs to be looked at in total, which the gov. has been doing, reviewing and proposing new legislation.

Another problem she is is that you must be licensed to prescribe medicines, under federal law (DEA#) Right now the six practicing podiatrists are not licensed but would be so under the grandfather clause of most bills. There is a bill right now that should be in effect in July, if it passes the legislature which would be a credentially bill for podiatrists.

Committee decided to pass it out with a do pass and recommendation that it go to House Commerce, because they are hav ing a meeting on Thur. to discuss other licensing bills. Committee members plan to attend.

HB 190 will be taken up at a later date. Mr. Duncan needs to locate his information on it.

AB

546

"An Act relating to public utility rates."

COMMITTEE REPORT

HOUSE

Mr. Speaker: Date _____

The Committee on _____ has had _____

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

02-0018

STATE
of ALASKA

MEMORANDUM

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

TO: The Honorable Bob Bradley
Chairman
House Commerce Committee

DATE: February 5, 1976

FROM: Langhorne A. Motley
Commissioner

SUBJECT: HB 546

Attached are copies of comments from the commissioners of the Alaska Public Utilities Commission relative to HB 546 (public utility rates). I understand this bill will come up before the House Commerce Committee on Thursday, February 12. If you desire that members of the commission attend the meeting to present further testimony, please let me know and I will contact them for you.

Comments on House Bill No. 546

The surcharge mechanism, most commonly applied through a fuel cost adjustment charge (FCAC) but also utilized occasionally for taxes and other costs, is the subject of considerable debate in the ragulatory arena. Many commissions, like the APUC, have permitted utility companies to use the FCAC to offset the volatile changes in fuel prices which potentially impair the financial stability of the utility and, in turn, its ability to service its customers. Inasmuch as the FCAC is employed selectively, monitored with regard to calculation and billing of fuel charges, and subject to careful and continuous review, it does attempt to provide a reasonable alternative to the timely and costly full rate proceeding. Therefore, if the legislature should adopt the philosophy that it will not permit surcharges, it will be desirable to examine the full financial ramifications of this determination.

(b) The Alaska Public Utilities Commission has consistently excluded construction work in progress in determining the value of public utility property in rate-making proceedings. Most utilities, while aware of the Commission's policy, continue to incorporate construction work in progress as a component of rate base and to argue for its inclusion in written and oral testimony before the Commission. This section of the proposed legislation would provide a legislative mandate for the Commission's current posture and eliminate construction work in progress as a ratemaking issue.

Susan M. Knowles

Susan M. Knowles
Commissioner
Alaska Public Utilities Commission

HB 546

I am not in favor of Section 1, sub-section (a) of HB 546 relating to surcharge. The economic impact on this Commission would be prohibitive. This is due primarily to the unsettled nature of energy source costs to the utility. Wide-ranging fluctuations in energy costs would place the utility in a position of constantly being before this Commission in a rate proceeding. This increased activity before the Commission would require additional personnel, travel and other budgetary increases.

Section 2, sub-section (b) with regard to construction work in progress (CWIP) is consistent with current and past practices of this Commission. CWIP is handled in a variety of ways by other regulatory Commissions throughout the United States. The APUC has consistently rejected the inclusion of CWIP; this section of the bill would merely reinforce that rejection.

Marvin R. Weatherly
Commissioner
Public Utilities Commission

HB546

I am not particularly fond of the use of surcharges in lieu of the usual ratemaking process. However, during the past months it appeared that the surcharge route was the only way to keep many Alaskan utilities financially viable. The rapid escalation in the cost of fuel oil placed those utilities in a position where they were having to absorb unprecedented expenses. A normal tariff revision involves a considerable period of several months at a minimum due to statutory requirements for noticing, etc. It is one of the responsibilities of the Alaska Public Utilities Commission to see that the utilities are kept financially healthy. It would have been possible for several of the electric utilities to have been seriously injured from an economic standpoint by the rapidly increasing cost of fuel. I personally have not favored the use of fuel surcharges for any type of fuel other than fuel oil. I was of the opinion that the prices of coal and natural gas could be more readily anticipated and handled in the normal tariff revision procedure. The surcharges presently being assessed for rising costs of fuels involved the flow through of the "bare bones" costs of the fuel. There are no add-ons for profit, etc.

This procedure may appear to be unreasonable in some service areas of Golden Valley Electric Association. The surcharge is much larger in the GVEA area not necessarily due to higher costs of fuel but to a change in the utilization of generation plant in the GVEA area. The surcharge actually works more to the advantage of the consumer than a normal tariff revision would. The reason for this is the computation for the highest surcharge is applied to the next month's consumption and a consumer does not pay as much as if there had been a flat increase in the rate. In the case of GVEA it has been estimated that they lose in excess of $400,000 in this manner . . . or the consumers gain this amount. The tremendous population boom in GVEA's area has necessitated the utilization of more diesel plant and consequently more fuel oil. GVEA is presently before this Commission for a rate increase which would eliminate this present surcharge and establish a new fuel cost basis if any further surcharge is needed.

Gordon J. Zeppetz
Chairman
Alaska Public Utilities Commission

Position of B. Richard Edwards, Commissioner, Alaska Public Utilities Commissioner regarding surcharges for energy use (referred to in paper as AFAC - Alaska Fuel Adjustment Charge) made to Alaska Rural Electrical Cooperative Association, August, 1974.

In arriving at the conclusions which I have previously stated it was necessary to weigh and evaluate these disadvantages to the AFAC with the pros and advantages of such clauses. In my view the major advantages of such clauses include:

(1) keeping a utility from bankruptcy court in a time of severely rising costs on a certain product (in this case fuel) where that rising cost is somewhat caused by a lack of supply;

(2) to permit the aforementioned rising fuel costs to be flowed through to the consumer of the smaller utility so that that utility will not be required to come into the Commission month after month with a complicated and very costly rate case;

(3) to limit the costly effects of regulatory lag during a period of high inflation; and

(4) to permit the electrical power utility in many of our smaller communities in the State to insure an adequate fuel supply.

In weighing the pros of an AFAC against the cons of the AFAC the primary consideration is the overall axiom of rate regulation that it is in the public interest for each consumer to receive reliable utility service at the lowest possible price and that to accomplish this the public utilities supplying the service must be in healthy financial and structural conditio .

As I mentioned earlier in my opinion, the pros still outweigh the cons and the AFACs should be allowed to remain by the Commission. It is also my opinion, however, that one of the major reasons for the AFAC, that is galloping rising fuel costs, will soon stabilize, in which case the necessity for AFACs will vanish. I am not unmindful of the arguments that the AFACs are a double edged sword, that is, the sharp edge which permits a surcharge to be added to each customer's bill as fuel costs rise, and the dull edge which permits a reduction of that surcharge in the event of lowering fuel prices. There are those who argue that because of the possibility of lowering fuel costs in the future the AFAC should be maintained to give the public the benefit from such lowered fuel costs. In my mind this is not a strong argument for maintaining the AFACs because I cannot foresee this country's fuel crisis becoming such that fuel costs will begin to lower, however, as I have previously mentioned I can foresee this country's fuel crisis stabilizing either through the market structure or government control. This would result in a stabilized price for hydrocarbon products. Furthermore, if by some quirk of fate fuel prices are reduced, the rates may be reduced through the normal regulatory processes.

Because of the disadvantages of the AFACs any electrical utility that has such clauses must also assume

certain responsibilities. These responsibilities require the electrical utility to attempt to find methods of increasing their productivity of kilowatt hours per BTU input. Also the public utility is required to seek out and institute every possible efficiency measure it is capable of in order to decrease the costs to the consuming public. Furthermore, the utility should use every opportunity to obtain fuels at a cheaper price. It is recognized, of course, which some people fail to recognize that many of the utilities with AFACs have one source or supplier of fuel and that bargaining for a cheaper price is like blowing in the wind. In any event, I would bet on the shrewdness of this State's electrical utility operators against a fuel oil supplier any day when it comes to bargaining for the prices to be paid for the fuel. The last requirement that AFACs place on electrical utilities but the first and most important requirement is that the electric l utility keep its customers fully informed of why that surcharge is being placed upon their billing. This information in the smaller communities can range from word of mouth to media coverage. Possibly a town meeting would be necessary, held by the public utility to explain that it is being charged higher fuel costs and that these costs are being passed on to the consumer pursuant to a formula which is fair and just to the consumer.

When I am weighing the pros and cons of the AFACs to determine whether they are necessary or should continue in effect for a certain utility, I also review whether or not this utility has assumed these responsiblities which I have mentioned above.

In conclusion I want to throw out a challenge to the electrical utilities represented at this Convention to devise an innovative procedure for insuring that Alaskan power utilities have a supply of fuel at a reasonable price. Your methods to insure this supply might require legislation or contractual rights requiring a portion of the State's royalty oil and gas to be available in the appropriate refined state for Alaskan public utilities. It is clear that the high fuel costs, the AFACs, and the surcharges on customers bills are a direct result of a fuel supply crunch felt across the nation. It is my opinion that Alaskans have a golden opportunity to insure their own supply, to protect Alaska's growth and her utility customers.

Comments on House Bill No. 546

I am opposed to Section 1 AS 42.05.381(a) for the following reasons.

It is my understanding from staff that the energy surcharge that is now being used by 24 utilities throughout the state of Alaska is the fairest way to cope with an economic situation that all of us face.

Generally utilities have two areas of cost - fixed costs and energy costs. The former costs must be recovered from the consumer regardless of the energy used. The energy costs are directly related to what it costs to produce the energy used by the consumer. Energy costs are recoverable by projecting future demand based on past history or as is the procedure by the surcharge by charging the consumer for exactly how much it costs to produce the amount of energy he uses.

There are qualifying factors which staff uses to base their recommendations to the Commission on whether a surcharge should be allowed by a utility. These are the changes in energy costs must be Frequent - Unexpected - Significant and Entirely beyond the control of the utility (FUSE). We have experienced in the last two years the fluctuating price of fuel oil which these utilities must buy in order to produce electricity.

The surcharge is established at a base rate level of cost of fuel. The staff of the Commission monitors the charges for this fuel oil taking into consideration the efficiency factors of producing the energy as well as checking the mathematical computation.

The Commission is currently looking at each utility with a surcharge to determine when the utility should be requested to come in with a rate increase, thereby updating the base price of fuel to current levels thereby reducing the surcharge to zero until such time as the cost of fuel increases the surcharge now in effect -- but not eliminating the higher bill for energy consumption as a rate increase would reflect the current cost of energy.

If it is the legislature's desire to eliminate the surcharge it would appear that each of the utilities affected (24) would be forced to come to the Commission for a rate increase at least once a year. This additional workload would necessitate additional staff and monies for consultants. I strongly suggest that a fiscal note be requested as there are financial implications in this legislation for the Alaska Public Utilities Commission.

Attached please find Exhibit A which lists the utilities presently using a surcharge and the percent of their consumer's bill that is surcharge. Please note that in some instances when a consumer is using a very large amount of energy his surcharge will be proportionately much higher because the rate he is paying for his energy is less i.e., a consumer using energy at 10¢ per kilowatt hour and paying an additional 1.5¢ per kilowatt hour surcharge will not be impacted by a surcharge as the consumer using energy at 3¢ per kilowatt hour and paying the same 1.5¢ surcharge.

Also, attached please find Exhibit B which is a xeroxed copy of a request for a surcharge and the procedure utilized by the Commission in granting such a request.

I believe Section 2 of AS 42.05.441(b) amending this section is of value. The policy of the Commission has consistently been to exclude construction work in progress in rate base. However, in my brief experience with the Commission, every utility that has filed for a rate increase has included construction work in progress and therefore much time and energy have been devoted to listening to the utility try and change the mind of the Commission and to digesting sets of financial statements with and without construction work in progress.

Carolyn S. Guess
Commissioner
Alaska Public Utilities Commission

EXHIBIT A

Location	Utility Name	% of Customer Bill That is Surcharge
Aniak	Aniak Power Company	15.2
Auke Bay	Glacier Highway Electric Assoc.	Unknown at this time
Bethel	Bethel Utilities Corporation	Unknown at this time
Cold Bay	Northern Power & Engineering	22.4
Craig	Alaska Power & Telephone Co.	22.4
Dillingham	Nushagak Electric Association	15.7
Egegik	Nushagak Electric Association	19.1
Fairbanks	Golden Valley Electric Assoc.	18.0
Fort Yukon	Fort Yukon Utilities	6.9
Glennallen	Copper Valley Electric Association	16.9
Haines	Haines Light & Power	30.6
Juneau	Alaska Electric Light & Power	0.48
Hydaburg	Alaska Power & Telephone	34.7
Kodiak	Kodiak Electric Association	28.6
Kotzebue	Kotzebue Electric Association	6.3
McGrath	Northern Commercial Company	16.4
Naknek	Naknek Electric Association	19.1
Port Lions	Kodiak Electric Association	22.2
Northway	Northway Power & Light	18.9
Skagway	Alaska Power & Telephone	11.3
Tok	Alaska Power & Telephone	18.3
Unalakleet	Matanuska Electric Association	16.6
Yakutat	Yakutat Power, Inc.	18.8
43 Villages	Alaska Village Electric Coop.	13.4

EXHIBIT B

TARIFF ACTION MEMORANDUM

12/1/75
(DATE)

File No.: TA 13 - 88

Date Filed 11 / 24 / 75

Name of Utility NORTHERN POWER & ENGINEERING CORPORATION, INC.

Tariff Recommendation:

1. Publication of notice should be waived..... X
2. Filing should become effective at end of 45-day statutory notice period on __/__/__..... ____
3. Filing should be allowed to become effective on 12/1/75 which is less than the 45-day statutory notice period..... X
4. Filing should be rejected and returned to the utility..... ____
5. Operation of the filing should be suspended..... ____
6. Part of filing should be accepted effective __/__/__ and part should be suspended..... ____

Reason(s) for the above-indicated recommendation:

The filing is in the proper format.

Signed: R.A. Smith Title: Tariff Specialist II

Recommendation to Tariff Sec.: Recommend Approval. Arithmetic checks and submittal conforms to previous submittals. This is the 10th surcharge applied at Cold Bay and the 1.84¢/KWH is a 0.11¢ increase and corresponds to a 1¢/gal increase in the cost of fuel. Efficiency is constant. This should generate an average $4,015/mo above base revenue for the utility and add $9.20 (18% of total bill) to the 500 KWH/mo consumers' $41.00 bill.
(of $5.20)

Signed: D.L. McPowell Title: Utilities Engineer III

Commission decision re this recommendation:

	I Concur	I Do Not Concur
Zerbetz	MJZ	
Edwards	CES	
Weatherly	WRW	
Knowles	SMK	
Guess	Cog	

Special instructions to staff:

EXHIBIT B

December 11, 1975

Please Reply:
Attn: Tariff
Ref: TA13-88

Mr. Edward L. Tilbury, Vice-President
Northern Power & Engineering Corporation
P. O. Box 729
Eagle River, Alaska 99577

Dear Mr. Tilbury:

Enclosed is the validated tariff sheet which was filed on November 24, 1975, by Northern Power & Engineering Corporation. This filing, designated as TA13-88, has an effective date of December 1, 1975.

Very truly yours,

ALASKA PUBLIC UTILITIES COMMISSION

J. Lowell Jensen, P.E.
Executive Director

RAL:tml
Enclosure

EXHIBIT B

NORTHERN POWER & ENGINEERING CORPORATION

P. O. Box 729 • Eagle River, Alaska 99577 • (907) 694-9631

November 20, 1975

Tariff Advice Letter No. 13
Alaska Public Utilities Commission
1100 MacKay Building
338 Denali Street
Anchorage, Alaska 99501

Gentlemen:

The tariff filing described below is hereby transmitted to you for filing in compliance with the Alaska Public Utilities Act and secs. 3AAC 48.200 - 3AAC 48.420 of the Alaska Administrative Code.

Tariff Sheet Number		Cancels Sheet Number	
Original	Revised	Original	Revised
	First Revised 41		41

This tariff revision is being submitted to adjust the fuel cost rate adjustment surcharge to reflect the current status of our generation efficiency and fuel cost. The computed surcharge rate of 1.84¢/KWH will apply to electric consumption during the month of November 1975 and will appear on the customer statements dated December 8, 1975.

Attached are Exhibits I & II computing the surcharge rate and fuel inventories as well as copies of fuel delivery invoices and a revised tariff sheet for filing.

Sincerely,

NORTHERN POWER & ENGINEERING CORPORATION

Edward L. Tilbury
Vice-President

RECEIVED
A.P.U.C.
NOV 24 11 46 AM '75

EXHIBIT I

12 MONTH PERIOD
PRECEDING SURCHARGE

November 1, 1974 through October 31, 1975

DATE	FUEL PURCHASED	KWH SOLD
NOV 74	22,548 GAL	222,200
DEC	20,164	231,374
JAN 75	24,064	275,099
FEB	19,736	219,633
MAR	20,391	238,540
APR	18,947	219,550
MAY	22,786	210,479
JUN	15,738	192,937
JUL	16,899	167,416
AUG	20,010	204,015
SEP	16,851	196,687
OCT	22,561	241,307
	240,695	2,619,237

SURCHARGE CALCULATION

$$\text{Surcharge} = \frac{\text{Current Fuel Cost - Base Period Fuel Cost}}{\text{Average KWH Sold/Gal Fuel Consumed}}$$

$$= \frac{45.0¢ - 25.0¢}{2,619,237/240,695}$$

$$= 1.84¢/\text{KWH}$$

EXHIBIT II

STATEMENT OF FUEL INVENTORIES
AT COLD BAY, ALASKA

Nov. 20, 1975

DATE	GALS DELIVERED	PRICE	INVENTORY
OCT 03	4,192	44¢	3,808
10	4,602	44¢	3,398
17	4,519	45¢	3,481
24	4,638	45¢	3,362
31	4,610	45¢	3,390

NORTHERN POWER & ENGINEERING CORPORATION

Edward L. Tilbury
Vice-President

State of Alaska

Third Judicial District

THIS IS TO CERTIFY that on this 20th day of November, 1975, before me appeared EDWARD L. TILBURY, VICE-PRESIDENT of NORTHERN POWER & ENGINEERING CORPORATION, known to me to be the individual signing the statements setforth herein.

WITNESS my hand and seal the day and year hereinabove written.

Notary Public In and For Alaska

Canceling

Original Sheet No. 41

NORTHERN POWER & ENGINEERING CORPORATION

FUEL COST RATE ADJUSTMENT

The surcharge for increased fuel costs is as follows for billings rendered after the effective date set forth below:

$$\text{Surcharge} = \frac{45.0¢ - [illegible]\ 0¢}{10.[illegible]} = 1.84¢/KWH$$

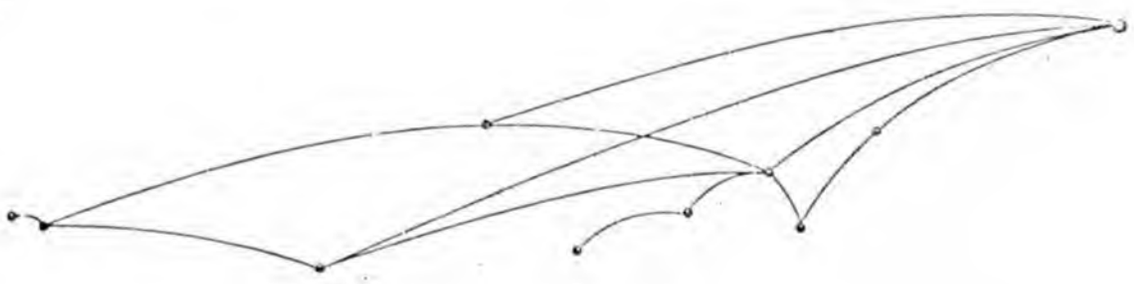
This filing is submitted pursuant to Order No. 2 of Docket U-74-92.

Tariff Advice No. 13 Effective: December 1, 1975

Issued by: NORTHERN POWER & ENGINEERING CORPORATION

By: Edward L. Tilbury Title: Vice-President

REEVE ALEUTIAN AIRWAYS, INC.



October 17, 1975

Northern Power & Engineering Corp.
Box 729
Eagle River, Alaska 99577

Gentlemen:

Effective October 17, 1975 the Chevron Heating Fuel #2 will be increased in price to $.45 per gallon.

This increase represents a crude oil increase by the Standard Oil Co. of California to us on October 17, 1975. This increase you are receiving represents our fuel costs and in no way reflects our dealership costs.

Yours truly,

Reeve Aleutian Airways, Inc.

Robert L. Hanson,
Executive Vice-President

lja

RECEIVED
OCT 21 1975

☐ MAIN OFFICES
P O BOX 550-343 W 6th AVE
ANCHORAGE ALASKA 99510

☐ ACCOUNTING, MAINTENANCE, OPERATIONS
P O BOX 6027 - INTERNATIONAL AIRPORT
ANCHORAGE ALASKA 99502

REEVE ALEUTIAN AIRWAYS, INC.

Cold Bay, ALASKA

No. 5517

Date 10-3 1975

Name NPEC

Address

SOLD BY	CASH	C. O. D.	CHARGE	ON ACCT.	MDSE. RETD.	PAID OUT
GK			X			

QUAN.		DESCRIPTION	PRICE	AMOUNT
4192	1	DIESEL	.47	1971 72
	2			
	3			
	4	STOP 5780477		
	5	Start 5776285		
	6	Total 4192		
	7			
	8			
	9			
	10			
	11			
	12			1971 72

Customer's Order No.

Received By R. Livingston

KEEP THIS SLIP FOR REFERENCE

4814.2

ACC 115

REEVE ALEUTIAN AIRWAYS, INC.

Cold Bay, ALASKA

No. 5519

Date 10/16/75 19

Name

Address NPEC

SOLD BY	CASH	C. O. D.	CHARGE	ON ACCT.	MDSE. RETD.	PAID OUT
DS			✓			

QUAN.		DESCRIPTION	PRICE	AMOUNT
4777	1	Diesel	.44	2100 56
4792	2			
15	3			
	4	Start 5778356		
	5	Stop 5782108		
	6	Total 3752		
	7	4777		
	8	4792		
	9			
	10	5192		
	11			
	12			2100 56

Customer's Order No.

Received By R. Livingston

KEEP THIS SLIP FOR REFERENCE

4814.2

ACC 115

REEVE ALEUTIAN AIRWAYS, INC.

Cold Bay, ALASKA

No. 5521

Date 10-17 1975

Name NPEC

Address DIESEL

SOLD BY	CASH	C. O. D.	CHARGE	ON ACCT.	MDSE. RETD.	PAID OUT
GK			X			

QUAN.		DESCRIPTION	PRICE	AMOUNT
4511	1	DIESEL	.47	1982 [illegible]
	2			
	3			
	4	Start 5784561		
	5	Stop 5789080		
	6	Total 4519		
	7			
	8			
	9			
	10			
	11			
	12			

Customer's Order No.

Received By R. Livingston

KEEP THIS SLIP FOR REFERENCE

4814.2

ACC 115

REEVE ALEUTIAN AIRWAYS, INC.

CDB ALASKA

No 5522 Date 10/24 19 75

Name NPEC.

Address

SOLD BY	CASH	C. O. D.	CHARGE	ON ACCT.	MDSE. RETD.	PAID OUT	
RLN			X				

QUAN.		DESCRIPTION	PRICE	AMOUNT
4638	1	DIESEL	44	~~2041~~
	2		45	2,070 72
	3	STOP 6004702		2087 10
	4	START 6000064		
	5	4638		
	6			
	7			
	8			
	9	615		
	10			
	11			2087 10
	12	TOTAL		2,040 72

Customer's Order No.

Rec'd By Rh ington

KEEP THIS SLIP FOR REFERENCE

ACC 115

4814.2

REEVE ALEUTIAN AIRWAYS, INC.

CDB ALASKA

No 5525 Date 10/31 19 75

Name NPEC

Address

SOLD BY	CASH	C. O. D.	CHARGE	ON ACCT.	MDSE. RETD.	PAID OUT	
RLN			X				

QUAN.		DESCRIPTION	PRICE	AMOUNT
4610	X	DIESEL	45	2,074 50
	2			
	3	STOP 6009312		
	4	START 6004702		
	5	TOTAL 4610		
	6			
	7			
	8			
	9	615		
	10			
	11			
	12	TOTAL		3074 50

Customer's Order No.

Rec'd By

KEEP THIS SLIP FOR REFERENCE

ACC 115

4814.2

HOUSE COMMERCE COMMITTEE
February 17, 1976

House Bill 546

Chairman Bradley called the meeting to order noting that a quorum was present. Representative Red Swanson was called to testify, being the prime sponsor of the bill.

Rep. Swanson explained that he had introduced the bill at the request of his constituents in his district and those of interior Alaska. One year ago he had filed a protest with the Federal Energy Commission in Washington on an unfair use of surcharge with the Golden Valley Electric Company (GVEA). He didn't get to far with Mr. Zar or Region X, which is the Northwest Region. In fact they ignored me. Although GVEA did with the Alaska Public Utilities Commission (APUC) hold a type of hearing with a protest from the City of Anderson. I didn't have a reply with Region X which should deal with the type of surcharge to oil with GVEA. In my travels in the interior of Alaska this past summer, I again met with people and the number one priority with the Fairbanks people was this. Although my attention is forcused on GVEA it is also in twenty-four communities in dealing with electric companies. This is not only on electric companies but on phones, garbage, etc. This bill would amend the statutes to disallow a surcharge. Under the APUC and statutes we have every mechanism laid down by law which allows any public utility to go before the APUC and if rate increase is justified they can get the increase. Through the loop hole, they can use the surcharge for just about anything they want to impose on the people. GVEA had an interium rate increase of 18% but the 18% through the loop hole allows them to use any type of computation they want. One case of this as an example; a man's utility bill was $344.60 on $156.50 on the demand basis and $268.81 surcharge. It is a terrible thing happening to the people. Go back a few short weeks ago to an Anchorage paper whe the APUC denied the City of Anchorage in their utility rates and unfold itself to the public that they had taken the money that was suppose to go to upgrade utilities and instead was put in ghe general fund for whatever they pleased. I quote: "It's just another case of why the bill is important. We must close that loop hole in the law that allows these things to happen." My criticism is not against the utility, it what we as legislature has allowed. Let me quote a part of the loop hole in the law which allows this to happen. Section 42.05.411 New and Revised Tariff. "No public utility may establish or place in effect any new or revised rates, charges, rules, regulations, conditions of servic, or practice except after thirty days notice to the Commission and the public. Notice shall be given by filing with the Commission and keep open for public inspection the revised tariff provisions which shall plainly indicate the change to be made in the schedules then in force and the time when the change will go into effect. The Commission may prescribe additional means of giving notice." The loop hole is: "The Commission, for good cause shown, may allow the change to take effect on less than thirty day notice under conditions the Commission prescribes." The loop hole is there where the Commission can allow them to change anything they want to. I have received over a thousand letters from the public. I will keep them in my office if the committee members would like to view them. Take for example a little old lady on a fixed income and a few years ago was talked into going all electric. Today her electric bill is more than her rent. The public is now being penalized.

I'd like to go through the request that came from the APUC. Mr. Gordon Zerbertz sent me this information and I'm sure it is the same as you have. I would like to go through some of the outstanding parts of his testimony. "I am not particularly fond of the use of surcharges in lieu of the usual rate making process, however, during the last month it appeared that the surcharge route was the only way to help many Alaska utility companies financially viable." This is true because of out of twenty-four communities in Alaska, the small utilities have applied for a surcharge and they have not violated the surcharge. They have applied for the cost of fuel and that is the only reason. They did not go to up to 75 to 90% increase. In Mr. Zerbertz's testimony "The tremendous population boom in the GVEA area has necessitated the utilization of more diesal plant and consequently more fuel oil. GVEA is presently before the Commission for a rate increase which would eliminate this present surcharge and establish a new fuel cost basis and any further surcharges as needed." But even in their request they left open the loop hole. I quote from GVEA's newsletter: "This was a request of 25% rate increase on August 26, 1975 to the APUC. It will eliminate the present surcharge although it also has a surcharge provision which will be exercised if fuel cost go crazy again." They close the loop hole in the beginning and then come back with a provision to do it.

Mr. Marvin Weatherly in his remarks in the first paragraph states: "The economic impact of this commission would be prohibitive. This is due primarily to the unsettled nature of energy source costs to the utility." He further states: "This increase in activity before the commission would require addition personnel, travel and other budgetary increases." I would like to point out to the committee that these people make $41,000 per year and I certainly am hopeful that they sit at their desks at least eight hours per day, five days per week. Costs to close the loop hole would not make additional costs if they would just sit down and work. There is a strange thing that happened with the APUC when the legislature increased the amount of staff to two people on the commission. We put on that commission two very able people in the role of Susan Knowles and Carol Guess. Susan Knowles' remarks again go back to the fact that there is no real objection to closing the loop hole. They would need additional personnel if effected. Each commissioner has agreed with my bill.

In Mr. Edwards note is the same reason for additional personnel because of the increase in workload. Page five of his testimony is something that really made be protest to the Federal Energy Commission in Washington and I quote: "I cannot forsee this country's fuel crisis become such that fuel costs will begin to lower, however, as I have previously mentioned, I can forsee this country's fuel crisis stablizing either through market structure or Government control." I would like to say that PL 93.319 Federal, says: "Under the Nixon administration, it was mandated that those companies when coal is available, that companies convert from oil to coal." This was confirmed on December 22, 1975, that utilities where coal was available must convert from oil or gas. Today we have a ceiling on the cost of coal. It could change. Because Mr. Edwards did open this up it did allow me to make those remarks. This ia another thing the committee is not aware of that in the amendment to the law under the Environmental Protection Act, those regulations were amended to allow such companies such as Healy Coal and Usibelli Coal Mines.

I hope that the committee realizes that I'm not taking on the APUC or GVEA. I am trying to close a loop hole in the law for my constituents and yours.

Rep. Wallis asked for an explanation of the last sentence in the bill.

If a utility company is going to build a power plant five years from now, they cannot use the cost of that facility as a charge back today to the customer. The APUC agreed that companies have repeated applied for this cost as a rate making base.

Rep. Wallis asked what this says though is work in progress.

A utility company could have work in progress for ten years to twenty years. They continually build a facility up and up.

Rep. Wallis asked if we are putting a hardship on utilities so that they can't amortize their construction.

They can amortize their construction. Nothing in the law stops a utility from goin to the commission and asking for an increase in rates for the cost of running the utility.

Chairman Bradley stated that the APUC in their report had stated that this would make it statutory rather than by regulations. They stated they had no problems with Section 1 of the bill, however, Section 2 would put stress on the work load.

Rep. Urion asked if Rep. Swanson know is the surcharge has a profit involved in it or just the cost.

I don't think I can answer that, however, someone did ask the APUC about utilities paying income tax on their profit and the APUC stated that no public utility was allowed to make a profit.

Rep. Urion asked if we do this then they could get a permanent increase through the APUC.

Yes, if a utility comes in with a justifiable rate increase and prove to the Commission by law they can grant it.

Rep. Urion stated then the surcharge is for additional costs only, we assume that. It seems to me they will be paying the higher rates only it will be permanent.

The GVEA people were granted an 18% increase in cost by the APUC but they have utilized the loop hole in the law to increase 18% to as high as 67%. Many people in their testimony to me stated they realized there had to be an increase in rates but would like to know what it is for. They didn't want it to change every month.

Rep. Rudd was curious to know how this would close the loop hole. Wouldn't this still allow utilities to come in with thirty day notice and get an increase in rates.

No they wouldn't if you close the loop hole. The legal advice I had when we made this bill advised me that this would close it.

The Chairman then recognized Representative Glenn Hackney to testify before the committee.

I'll be very brief Mr. Chairman. There is only one thing, that is make a point of a hearing in Fairbanks on March 6, 1976 which has to do specifically with the GVEA surcharge. I would like to read a letter from the APUC. They say they have directed staff to pursue the question of holding a hearing in Fairbanks. "It was suggested that the most expedient procedure would be to combine our efforts with GVEA and hold a public hearing which would be chaired by the APUC." The date has been firmed up as March 6th. There's one crucial paragraph in the letter that I would like to stress. This is from Marv Weatherly and he says: "As you know, GVEA is a cooperative which is owned by the membership. This commission and other commissions in the lower '48 consider such REA financed co-ops as the least likely to gouge the public. Members of GVEA through the democratic process of changing the board of directors, can have more impact on the management of GVEA than can this commission." It goes on to say: "Hopefully we will soon enter into a period of stable energy prices and the surcharge question will be one of history." Well, I'll believe that when I see it.

A couple of comments on the bill itself. One of the reasons for this surcharge is it takes so long to get a rate hike approved through the APUC and with the way fuel prices have fluctuated, what Red called an escape hatch has been used by the utilities in order to recoup the cost that they've been subjected to by having to use very expensive fuel oil in order to generate electricity. I think Rick (Urion) made a good point in saying that if a rate increase is put into effect that will cover projected costs of the utility, it is going to be a year round rate increase. I think we should look at that very closely, because we could be doing a real diservice to the consumer's of electric power in this state if we do away with the surcharge. If GVEA is being irresponsible in its operating then certainly at the Board of Directors meeting they are open to owners who are the people who have a piece of GVEA. As to comments on the profit question, I think that will come out at this hearing on March 6th. I am intending to go to this hearing, on my own dime I might add. I am going to tape the hearing and I might suggest someone from the committee might want to attend. I'd be please to tape it and make it available to the committee. I think it will be very interesting and informative meeting. I don't happen to be on GVEA in Fairbanks but Mr. Chairman we are talking about rates and I too have had many letters as Red has from constituents in the Fairbanks area. One in particular from a lady who had a bill for 8,150 kilowatt hours. The bill was $174.07 and $115.06 surcharge for a total with tax of $303.59. I took that down to the utility here in Juneau just to get some kind of feel--a comparable as to what that might cost in other parts of the state and that smae bill down here would have cost $644.00 for the same amount of electricity. Juneau's surcharge in the month of December was .002 which is a pretty small amount. But that is the whole point of the surcharge. It is used just in order to recoup addition cost on occassion by the use of more expensive fuel. I just hope you wouldn't proceed quickly.

Chairman Bradley stated for the record that the bill did have a further referral to Judiciary Committee.

Mr. Bill McConky of the Governor's Office, Director of the Energy Office. was then asked to testify.

We received a packet through the mail also concerning the surcharge question in Fairbanks. There are a couple of background statements. First of all I would like to reiterate what Red said about the corporate irresponsibility of the people to convert to all electric homes in an era when we have extreme energy crisis and high costs. An all electric home in a situation when we have hydro-electric power or another renewal resource is a viable alternative and should be considered. Corporations to be pushing all electric homes in places where we are burning fossil fuel and even coal is corporate irresponsibility. Consequently we have people in Fairbanks who are paying outlandish surcharges. I might add that in Gordon Zerbertz's letter to the point of this bill and I quote: "The surcharge is much larger in the GVEA area and not necessarily due to higher cost of fuel." In the case of GVEA he is admitting that there are other than fuel charges added into this surcharge. Now on the bill itself, we support the bill in concept. The APUC is there for the single purpose that the utilities are kept financially sound and the public is receiving the power at a fair rate. That means they must hold hearings and devise procedures to see that their workload can be handled to the satisfaction of the legislature, the administration and the people going throught them. I am not entirely convinced that the commission cannot handle addition workload if they are required to do so. If they are to handle the addition workload, I think it is a legislative decision whether or not additional staffing would be required. It is our position that the large increases passed on to the public without proper hearing should be stopped. That some kind of hearing, even if it is stream lined somewhat less than a full rate hearing takes place. Something should happen so that the public can at least have the confidence that there isn't any unjust increases allowed. That's basically our position on this bill. It a bad situation. I might believe that in the case of GVEA the bill might end up being more, I'm not saying that it would. Red has argued that it might be lower. It might be higher, and if we take the position of both it would even out. Since we are talking about monopolies and the people don't have anywhere to go, they do have the right of a hearing. If nothing else, those people on a fixed income ought to have a place to go to say ladies and gentlement you are killing me and I can't do this any more. I would make a further suggestion beyond the scope of this bill and that the legislature undertake a study of the APUC, their procedures, for streamlining to see if perhaps the scope of operation could be improved. There are a number of discussion about the APUC, their scope the surcharge bit.

Chairman Bradley asked what the cost would be for a study of this type.

Firms we deal with, you are generally talking about approximately $50,000 to $60,000 for a complete management study. That is a high figure.

Bill Corpuz of the Alaska Electric Light and Power Company in Juneau then testified. We do not have a surcharge which amounts to much. We will have serious problems if this bill does pass. The lag time between when the rate is applied for and the effective dates when it is approved. The regular process is very time consuming. Perhaps the increase in staff will not spped up the time needed for a rate increase. Rate increases take from six to nine months. In the longrun it is a disadvantage to the public.

Rep. Wallis stated that the GVEA bit was bad business. I hereby move that this bill be moved out of committee to Judiciary.

Rep. Urion and Rudd objected.

Rep. Urion asked that members of the APUC be heard and possibly other utility companies.

Rep. McKinnon replied that the bill had one more referral to Judiciary.

There being a motion on the floor a vote was called. Kelley, Wallis, McKinnon, and Bradley voted yea. Urion and Rudd voted nea.

The bill passed out of the Commerce Committee.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

OFFICE OF THE GOVERNOR

ALASKA ENERGY OFFICE / 338 DENALI STREET – ANCHORAGE 99501
PHONE: 907 272 0527

April 5, 1976

Mr. Samuel J. Speziale, Jr.
1918 Jack Street
Fairbanks, Alaska 99701

Dear Mr. Speziale:

I will attempt to answer a couple of the points in your letter to me of March 17, 1976, and have sent a copy of your letter to Gordon Zerbetz of the APUC for further answers.

The Federal Energy Administration reports to me that there is no evidence of fuel overcharges to utilities, at this time. A continuing monitoring of the relationship will be undertaken.

House Bill #546 was voted out of the Commerce Committee with a "do pass" recommendation and is presently in the Rules Committee, I believe. I would encourage you to communicate with Representative Leslie Swanson, in care of the State House of Representatives, Pouch V, Juneau, Alaska, on this piece of legislation.

The Chairman of the Commerce Committee, Representative Bradley, has introduced a resolution requesting a complete analysis of APUC procedures and rate processes. He may be reached at the same address as Representative Swanson.

The APUC is an independent organization. Administrative officials cannot influence their decisions. I would encourage you to communicate directly with the, in care of, Chairman Gordon Zerbets, APUC, MacKay Building, 338 Denali Street, Anchorage, Alaska.

I am sending copies of your letter and my response to Mr. Zerbetz, Representative Swanson, Representative Bradley, Mr. Tony Motley, Commissioner of the Department of Commerce and Economic Development, and Mr. Fred Chiei, Administrator of the Federal Energy Administration office in Anchorage.

I realize fully that my response does not solve your problem and will add to your frustration with the matter. We share your concern and frustrations and I sincerely and personally wish there was a quick answer to the problem. We are continuing to search.

Sincerely,

William C. McConkey

William C. McConkey
Director

March 17, 1976

RECEIVED
MAR 30 1976
ALASKA ENERGY OFFICE

Mr. William C. McConkey, Director
Alaska State Energy Office
Juneau, Alaska

Dear Sir:

Thank you for your letter of February 10, 1976. While I appreciate the effort of your explanation, some of the points you list are difficult to accept.

How can the A. P. U. C. possibly claim that it doesn't have the staff, manpower, funds, etc., to hold public hearings on projected rate increases? It seems to this writer that this is exactly what they are chartered to do by the State of Alaska!

Specifically, where do we stand on your request for a Federal Energy Administration audit of fuel oil suppliers? When can we expect legislative action on House Bill No. 546? The surcharge problem is now reaching crisis proportion while the administrative wheels churn through the red tape. You will soon see people several months behind in their mortgage payments. They don't dare not pay their electric bills or G.V.E.A. will terminate their service. What recourse do they have?

Listed below are the surcharge rates for the past three billing periods: December - .0141180, January - .0165072, February - .201996. Attached is a copy of my latest bill covering the month of February. You will note that the surcharge has now reached the ridiculous figure of 96.4% of the actual electric bill!!! To add insult to injury, the City of Fairbanks tax of 5% is computed on the total bill, surcharge included. This adds another $9.61 charge for which I have received absolutely no benefit.

I have researched this problem thoroughly in Fairbanks. No longer am I content to join the crowd castigating G.V.E.A. They went to the A.P.U.C. with a rather reasonable request for a 25% increase in charges. The state agency threw it back in their face. As I see it, the problem has been created and maintained by a state agency that is derelict in its duty. If a utility needs a rate increase let the A.P.U.C. get on the ball and hold appropriate hearings and either permit or deny same.

The surcharge method of charging back fuel increases is a farce that cannot be allowed to continue. Somewhere, someone is ripping off the public. Please, your help is needed now. Thank you.

Sincerely,

Samuel J. Speziale

Samuel J. Speziale, Jr.
1918 Jack Street
Fairbanks, Alaska 99701

POSTMASTER—DO NOT DELIVER TO THIS ADDRESS SEE DELIVERY ADDRESS ON OTHER SIDE

FROM

SPEZIALE SAMUEL J JR
& CHRISTINE
1918 JACK ST
FBKS AK 99701

68-9964-2

PLEASE DETACH LOWER PORTION OF THIS SHEET AND RETAIN FOR YOUR RECORDS

	ACCOUNT NUMBER					BILLING DATE	
2/02--03/05	68-99642	21	42547	9,519	199.40	3/10/76	ELEC 199.40

— DEMAND BILLINGS —

FUEL SURCHARGE 192.33

.00

DEMAND CHARGE .00

TAX 19.53

MISC

ARREARS .00

TOTAL DUE 411.26

BUDGET PLAN

Please Note

THIS BILL INCLUDES A SELF ADDRESSED RETURN ENVELOPE FOR YOUR CONVENIENCE. DETACH LOWER PORTION OF THIS SHEET AND RETAIN FOR YOUR RECORDS. INSERT PAYMENT IN POCKET ABOVE. FOLD, SEAL AND DROP IN MAIL.

INCLUDES PAYMENTS RECEIVED THROUGH 3/09/76

OUR PART OF BILL MUST ACCOMPANY YOUR PAYMENT
THE SURCHARGE TO PAY THE HIGHER COST OF FUEL
BURNED TO GENERATE YOUR ELECTRICITY IS
$.0201996 PER KWH FOR MARCH BILLING.

MISC. CODE
4- YARD LIGHT
5- OTHER

DETACH & RETAIN THIS LOWER FRONT COPY FOR YOUR RECORDS.

GOLDEN VALLEY ELECTRIC ASSOC., INC.
758 ILLINOIS ST., FAIRBANKS, ALASKA 99701

HB

554

"An Act relating to regulation of insurance holding companies; and providing for an effective date." A

COMMITTEE REPORT

1/14/76 HOUSE JUDICIARY

Mr. Speaker: Date _____

The Committee on COMMERCE has had HB 554

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE POUCH D — JUNEAU 99811

January 22, 1976

The Alaska State House of Representatives
Commerce Committee
In Session
Juneau, Alaska

Dear Ladies and Gentlemen:

Re: House Bill 554

As I explained at the meeting of the Committee on Friday, January 16th, I would propose certain technical amendments to accommodate wishes of the insurance industry which were, in general, acceptable to the administration.

Those amendments are as follows:

Amend Section 21.22.060 (c) to read as follows:

> The Director may permit an authorized insurer, which is a member of a holding company system subject to registration under the laws or regulations of its state of domicile, which are in the opinion of the Director substantially similar to those contained in this chapter to satisfy the requirement of Subsection (a) by filing a statement in accordance of the laws of its state of domicile except that the Director may at any time require the filing of a copy thereof with the Director." [TO FURNISH A COPY OF THE REGISTRATION STATEMENT OR OTHER INFORMATION FILED BY THE INSURER WITH THE INSURANCE REGULATOR AUTHORITY OF ITS DOMICILIARY JURISDICTION IN PLACE OF FILING THE STATEMENT AS REQUIRED IN (B) OF THIS SECTION].

The effect of this section is to not make it mandatory that all of the 700 foreign carriers authorized to do business in Alaska file the statement, provided a statement is filed with their state of domicile, but authorizes the Director of Insurance to require a copy thereof if necessary.

Amend Section 21.22.060 (d) to read as follows:

> No information need be disclosed on the registration statement filed under (b) of this section. That information is

not material for the purposes of this section. Unless the Director by regulation or order provides otherwise, sales, purchases, exchanges, loans or extentions of credit, or investments, involving the lesser of one half of one per cent [OR LESS] of an insurers admitted assets or five per cent of policyholder's surplus as of the 31st day of December of the calendar year in which the transaction took place, are not considered material for purposes of this section.

Some members of industry indicated that the definition of a material transaction was such that a lot of very small transactions would have to come under the prior approval requirement. This dual standard still provides sufficient protection for policyholders in this State but gives appropriate additional latitude to the industry.

Amend Section 21.22.070 to read as follows:

If at any time the Director determines that any material transaction entered into between and insurer and any of its affiliates does not meet the standards set out in Section 80. of this chapter, the Director may, after hearing as provided in Chapter 06 of this title, require the insurer and the affiliate to terminate, set aside, or modify the transaction as considered appropriate by the Director to make the transaction conform to those standards.

An insurer may submit a proposed material transaction to the Director for review and the Director may issue an opinion that such transaction meets the standard set out in Section 80. of this chapter and such opinion shall create a rebuttable presumption that neither the insurer, director, officer, employee, nor agent committed a willful violation of this chapter in entering into the transaction. No such opinion shall prohibit the Director from subsequently exercising his authority in this section."

It was pointed out that the after the fact review authority of the Director created an onerous burden on the carriers and they have asked that the law be amended to require the Director to give an approval of a material transaction or disapproval prior to the effective date of the transaction. The difficulty with their request is that once approved, the company may hide behind the approval should the transaction subsequently prove to be unwise for the benefit of policyholders. It is my opinion that if the transaction should fail to meet the standards set forth in Section 80. and Section 90., that the transaction ought to be set aside for the benefit of policyholders even if once approved by the Director.

I do believe that due process ought to be accorded and that the carriers be given an opportunity to have some indication of the Division's attitude toward the transaction and further that if the executives of an insurance company take the trouble to seek a prior approval, that they should be excused from the penalties for willfully violating the section.

Amend Section 21.22.080 (3) to read as follows:

"The insurers surplus as regards policyholders following any dividends or distributions to shareholder affiliates or performance pursuant a material transaction with an affiliate shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs."

This amendment makes Section 090, the standards for adequacy of surplus, applicable to the approval of material transaction.

For your information I have correspondence from Alaska Pacific Assurance Company, Pioneer National Title Insurance Company (Alaska Title Guarantee Company), and Alaska Insurance Company, all generally supporting the measure provided certain technical changes are made. All technical changes requested are included in these amendments except with respect to the prior approval of material transactions and my reason for not wishing to accede fully to their wishes is explained.

I believe however, that the industry will support the current language.

Let me again take this opportunity to point out the importance of this type of regulatory authority to the proper protection of policyholders in this state. Unfortunately, the prior inability of regulators to deal with transactions between carriers and their noninsurance affiliates has permitted substantial abuse of policyholder's surplus and while it is not prevalent with respect to the carriers currently domiciled in this state, it is important that the authority be available to provide continuing protection.

Yours cordially,

Richard L. Block
Director

RLB:ls

HB

556

"An Act relating to electrical contractors."

COMMITTEE REPORT

HOUSE

Mr. Speaker: Date 3/2/86

The Committee on COMMERCE has had HB 556 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

January 28, 1976

MEMORANDUM

TO: Bob Bradley

FROM: Terry Berman
Administrative Assistant

SUBJECT: HB 556, "An Act relating to electrical contractors."

This act transfers authority from the Department of Labor to the Department of Commerce and Economic Development to issue cease and desist orders or seek injunctions to stop electrical contractors from acting in violation of the law. Since administrative functions in relation to electrical contractors are presently under the Department of Commerce and Economic Development, it is presumed that it would be more efficient to give this department the power of enforcement.

Alaska State Legislature

House

JUNEAU ALASKA

January 28, 1976

MEMORANDUM

TO: Bob Bradley

FROM: Terry Berman
Administrative Assistant

SUBJECT: HB 556, "An Act relating to electrical contractors."

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N. Bx. Rep.

2. New effective on old ones

HB

558

"An Act relating to the regulation of insurance practices."

COMMITTEE REPORT

1/14/76 HOUSE JUDICIARY

Mr. Speaker: Date 1-23-76

The Committee on COMMERCE has had HB 558 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

Hall Do Pass

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends

_____ recommends:

_____ recommends:

_____ Chairman

R. E. ROBERTSON (1885-1961)
F. O. EASTAUGH
J. B. BRADLEY
W. G. RUDDY
L. B. JACOBSON
R. B. BAKER (ANCHORAGE)
M. T. THOMAS
L. J. BARKER (ANCHORAGE)
J. F. CLARK
P. M. HOFFMAN
J. P. TANGEN
A. G. DODGE (ANCHORAGE)

OF COUNSEL
M. E. MONAGLE

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY
ATTORNEYS AT LAW
200 NATIONAL BANK OF ALASKA BUILDING
PHONE (907) 586-3340
CABLE: ROMEA
TELEX: 099-45-376
P. O. BOX 1211
JUNEAU, ALASKA 99802

ANCHORAGE OFFICE
SUITE 310, ALASKA MUTUAL SAVINGS BANK BUILDING
P. O. BOX 679
ANCHORAGE, ALASKA 99510
PHONE (907) 277-6693
TELEX: 090-26-486

PLEASE REPLY TO
☑ JUNEAU OFFICE
☐ ANCHORAGE OFFICE

A PROFESSIONAL CORPORATION

January 28, 1976

The Honorable Robert Bradley
Chairman
House Commerce Committee
Room 628, New Court Building
Juneau, Alaska 99801

Re: House Bill 558

Dear Representative Bradley:

On behalf of the American Life Insurance Association, I am writing to advise you of the Association's position regarding the above legislation. The following amended language is suggested in order to bring the appropriate sections of the bill into conformity with the 1971 Commissioners' Model Fair Trade Practices, found in the 1972 NAIC Proceedings at pages 444, 495, 498, A513 and 515.

Sec. 21.36.125, page 4, introductory language to be amended as follows:

> Sec. 21.36.125. UNFAIR CLAIM SETTLEMENT PRACTICES. No person may commit or perform with such frequency as to indicate a general business practice any of the following acts or practices:

The reasoning behind the suggested rewording being that it is felt some allowance should be made for innocent violations.

Sec. 21.36.320(d), page 7, to be amended as follows:

> Reduction of proposed penalty to $1,000 and addition of "but not to exceed an aggregate penalty of $10,000."

Sec. 21.36.320(e), page 7, to be amended as follows:

> Reduction of proposed additional penalty to $4,000 and addition of "but not to exceed an aggregate penalty of $50,000, in any six month period."

The basis for the proposed penalty changes is that a fine of an astronomical amount for one advertisement could literally put a small company out of business.

We would appreciate your careful consideration of the suggested amending language. If you should need additional information or I could be of further assistance regarding the subject legislation, please contact me.

Very truly yours,

M. T. THOMAS

MTT:kh

HB

559

"An Act relating to insurance filing review periods; insurance rate deviations."

COMMITTEE REPORT

1/14/76

HOUSE

Mr. Speaker: Date 1/16

The Committee on COMMERCE has had HB 559

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

		Dr McKinnon
Freeman	do	
Thelma M. Tucker	do	

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE / POUCH D — JUNEAU 99811

January 23, 1976

The House of Representatives
Commerce Committee
In Session
Juneau, Alaska

Dear Ladies and Gentlemen:

Re: House Bill 559

I will be pleased to discuss with you, on Monday, January 26th, an act relating to insurance filing review periods and insurance deviations.

Under current law we have fifteen days to approve or disapprove a rate filing made by a carrier and we may, by writing a letter containing certain specific language, obtain an additional fifteen days in which to approve or disapprove that rate.

The amendment proposed in House Bill 559 would extend both the primary period and the extended period from fifteen days to thirty days. The amendment will also permit the Division to approve for use a rate filing without waiting for the expiration of an approval period. The amendment also eliminates the necessity of putting unnecessary language in the notice of the Division that the time for approval is being extended.

Finally there is a more substantive change which will allow the Division to approve deviation and rate filings in a manner other than a uniform percentage deviation.

Under current law a carrier may deviate from a bureau filing in a flat percentage upwards or downwards. Suppose the Insurance Service Office, the rating bureau for automobile insurance rates for the majority of carriers in this state, made a rate filing for all the various locations in the state, class codes, automobile discriptions, and driver ages, and that rate filing is approved by the Division. A carrier desires to market a program in this state and charge rates other than those approved for the I.S.O.

Under current law we have authority to approve only a flat percentage increase of decrease in the toal rate scale promulgated by the I.S.O.. Under the proposed amendment we would be authorized to do that but also to approve an entirely different rating scheme or a rating scheme where some rates are higher than bureau and some rates are lower than bureau.

It is believed by the Division that this will enable the carriers to market more strongly in this state and thus improve the market for insurance in a variety of lines.

Yours Cordially,

Richard L. Block
Director

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE POUCH D — JUNEAU 99811

January 23, 1976

Keep copy for our files & send a copy to Judiciary Leb.

The House of Representatives
Commerce Committee
In Session
Juneau, Alaska

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Re: House Bill 559

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It is believed by the Division that this will enable the carriers to market more strongly in this state and thus improve the market for insurance in a variety of lines.

Yours Cordially,

Richard L. Block
Director

HB

570

"An Act relating to furnishing copies of credit reports."

COMMITTEE REPORT

1/15/76

HOUSE

Mr. Speaker: Date 2/20/76

The Committee on COMMERCE has had HB 570 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

P. S. Bradley

Joe McKinney

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

P. S. Bradley Chairman

AMENDMENT

OFFERED IN THE HOUSE: BY: Commerce Committee

To: _____ HOUSE BILL No. 570

SENATE BILL No. _____

PAGE: 1 LINE: _____

Delete Sec. 45.50.550. CREDIT REPORTING beginning with line 10 through line 13 and add:

Sec. 45.50.550 CREDIT REPORTING. Every consumer reporting agency shall send a notice that a consumer report has been issued to the consumer about whom the report is given. The notice shall state that the report is open for inspection and an explanation of codes used in the credit report will be given.

LAW OFFICES OF
FAULKNER, BANFIELD, DOOGAN & HOLMES
SUITE 201, 311 FRANKLIN STREET
JUNEAU, ALASKA 99801

TEL. 586-2210
AREA CODE 907

HERBERT L. FAULKNER (1882-1972)
NORMAN C. BANFIELD
FRANK M. DOOGAN
MICHAEL M. HOLMES
RANDALL J. WEDDLE
WILLIAM B. ROZELL

JAN VAN DORT
LAWRENCE T. FEENEY
CHARLES N. DRENNAN
PATRICK E. MURPHY
TOM BATCHELOR

February 9, 1976

Mr. Robert Bradley
Chairman, House Commerce Committee
Pouch V
Juneau, Alaska 99811

Miller
Hill
Field

Re: House Bill No. 570

Dear Mr. Bradley:

I represent Household Finance Corporation which is a business organization operating, in part, under the provisions of the Alaska Small Loan Law. If the definition of "consumer report" is retained in its present form, HFC would be required to send a written communication to a customer every time a credit rating was given to another creditor. I would suggest that the words:

> A consumer report does not include any report containing information solely as the transactions or experiences between the customer and the person making the report.

be added to the end of subsection (9). I have been advised by my principal that these words are identical to the ones used in the Federal Fair Credit Billing Act.

Very truly yours,

Jan Van Dort

JVD/amz
cc: H. Kirk Henry
D. R. Buckey

ALASKA RETAIL ASSOCIATION, INC.
Box 1727
Anchorage, Alaska

January 19, 1976

STATEMENT ON HB 570, RELATING TO THE FURNISHING OF COPIES OF CREDIT REPORTS:

Mr. Chairman, members of the Committee, my name is Dean Ehrich, President of the Alaska Retail Association. I'm speaking, today, on behalf of the Association, a statewide organization of retail merchants and related service businesses. I have also been asked to represent the Anchorage Businessmens Association, which owns and operates the Anchorage Credit Bureau. The Interior Credit Bureau of Fairbanks and Equifax, Inc, formerly Retail Credit Company, have also authorized me to speak on their behalf as the time element did not enable them to send representatives to this particular hearing. It is hoped they will have an opportunity to testify on HB 570 at some future hearing before this Committee.

For your records, my present employment is as Manager of the Anchorage Chamber of Commerce. The Chamber has not yet had an opportunity to formalize a position on HB 570 but I feel certain they will also wish to provide a statement to the Committee at some future date. Meanwhile, my testimony on this measure is not to be construed as a position of the Anchorage Chamber of Commerce but only that of the organizations mentioned before.

HB 570 would require that a written copy of any credit report issued by a credit reporting agency, written or oral, be automatically mailed to the consumer upon whom the report was issued. It is also our understanding that a detailed explanation of terms contained in such reports would be required to accompany the report to the consumer. With the experience gained in my previous employment (four years as Assistant Manager of the Anchorage Credit Bureau), I can assure the Committee that such requirements, as contained in HB 570, would create some nearly insurmountable problems, not only for the consumer credit reporting industry, but also for users of credit reports and, more importantly, for the very consumer this measure would seek to protect.

First, let me review the probable economic consequences of HB 570. While compliance with the proposed provisions of the bill may not unduly harm automated credit reporting agencies, it must be remembered that there are only about six or seven credit bureaus in the State of Alaska, all of which are operating on manual systems. Reporting agencies basically supply two types of reporting services; telephone reports and manually typewritten reports. In a typical bureau, better than 75% of all reports are transmitted via telephone. Report prices for telephone reports are substantially lower than prices for the formal typewritten format.

While time did not permit a thorough analysis of the costs which would be involved in typing and mailing a report to the subject of each inquiry, I can give some "ball park" estimates relative to the Anchorage Credit Bureau. The Anchorage Credit Bureau does an average total dollar volume in reporting of about $35,000 per month. The average number of reports produced monthly works out to about 12,069 units or about 549 reports per business day. As about 75% of all reports produced are oral or informal "hand written" reports, there are around 411 of such reports daily. The minimum per report cost in typing a report, preparing explanations of coded items and terms, and mailing to the consumer is estimated at $2.50 per report. Thus, the cost of compliance with HB 570, for the Anchorage Credit Bureau, would amount to over $1000 per day or a staggering $22,000 per month. Quite frankly, the Anchorage Credit Bureau does not have an extra $22,000 per month to spend. I don't elaborate on the annual cost amounting to $264,000 per year only because I doubt if the operation would be in business for as long as a year under the conditions which would result from compliance with HB 570.

I'm certain that some would say that the reporting agencies could simply pass the increased costs along to their customers but I, quite honestly, have no idea how to pass along an increased cost factor amounting to around 65% of gross volume and still persuade retailers and other credit grantors to continue using credit reports.

Let us suppose for a minute that normal operations would continue in these conditions and that credit grantors would continue to use credit reports to the extent they do presently. First of all, credit bureaus, because a written report would be required to go forward in any case, would probably find it necessary to convert operations to the production of written reports only. The vast majority of credit decisions can now be made in a very short time by obtaining a telephone report.

If only typewritten reports are made available, consumers will be required to wait as long as two weeks for a credit decision instead of the day or two now required in the majority of cases. Further, because report prices would be increased by what reporting industry members tell me would be at least three times the average existing prices, credit grantors would be forced to pass this along to the consumer in some manner, such as increased merchandise prices, a credit report charge or, perhaps, a combination of these. It is also certain that more stringent screening processes would be invoked, thus depriving many consumers of the opportunity to obtain needed credit.

I should mention, in passing, that the increased cost factors mentioned earlier are not the whole story. Under present systems, and in accordence with exising Federal law (the Fair Credit Report Act - P.L. 91.508), a consumer is only notified about the issuance of a credit report if he is denied credit or some other benefit by reason of such report. If the credit or service is granted, he normally has no particular interest in the contents of a report or even whether or not one was issued. If reporting agencies are to mail a report in every instance, his curiosity would be triggered, even when the report reflects nothing but excellent payment habits, and, more than likely, he would contact the agency for further information or elaboration. This would further increase agency operating costs. We have no estimate of the probable extent of the cost increase in this connection but we know it would be substantial and would ultimately create yet another price increase.

There is one other problem connected with the wholesale mailing of credit reports which I'll touch on briefly. There is the real chance that confidential credit reports on consumers will fall into the hands of unauthorized persons. Mail is often opened by mistake (or design); family members not concerned with the report may have acess to the consumers mail and, as we all know, mail frequently goes astray. Credit reporting agencies have both a legal and moral obligation to insure that information contained in credit reports is related only to those having a legitimate business need for the information or to the person upon whom the report is written. Meeting these obligations would be nearly impossible under the conditions which would be imposed by HB 570.

The credit reporting industry is already regulated under Federal law as previously mentioned. I would like to discuss the provisions of that law to show the Committee that adequate protection already exists for the consumer relative to credit reports. First, though, I would like to point out that there are two basic types of consumer credit report; the regular "fact bilt" type containing only information obtained from the ledger experience of the consumer's credit references and other information usually obtained from public records; and what is called an "investigative consumer report" which may contain, in ad dition to the factual material mentioned, some comment and analysis regarding the personal characteristics general reputation, or mode of living of the consumer. The first type of report is typically used for credit granting purposes; the second for insurance and employment purposes. Both types of report have their specific uses and are necessary to determine the eligibility of an applicant for some requested benefit. Both types of report are thoroughly governed by the provisions of the Federal Fair Credit Reporting Act.

After much careful consideration and work, including input from the credit reporting industry and credit grantors, Congress passed P.L. 91-508, short title, the Fair Credit Reporting Act. This act, which went into effect in April of 1971, regulates all aspects of the industry and sets forth the specific permissible purposes for which credit reports may be issued or obtained. Basically, these purposes are as follows: (1) In connection with a credit transaction involving the consumer; (2) employment purposes; (3) underwriting of insurance; (4) to determine the consumer's eligibility for license or other benefit granted by a government agency; (5) and for any other legitimate business purpose involving the consumer. The law requires that credit report users, when declining to open an account or to grant some other benefit, by reason of a credit report, to notify the consumer of that fact and to supply the name and address of the credit reporting agency. The consumer then has, under the law, the right to contact the agency and to have disclosed to his any and all items contained in the file. This may be done either in person or by phone, upon his supplying the agency with proper identification or information over the phone which would reasonable serve to identify the consumer. The consumer, indicentally, also has the right to review his file even when there has been no transaction. Should the consumer dispute any information contained

in the file, the agency is required to reinvestigate the disputed item or items and to relate any change or correction to any credit report user to whom the erroneous information had been related during the preceding six months or, in the case of employment, the preceding two years. The law also provides that certain adverse information be deleted from a consumers file after a period of seven years, except records of bankruptcy, which must be deleted after 14 years. Examples of advers items include suits and judgements, paid tax leins, accounts placed for collection and/or charged off to profit and loss for non payment.

To help insure that reports are used only for permissible purposes, each customer of a reporting agency is required by the agencies to sign a contract which outlines the purposes for which credit reports may be obtained. Each customer of the bureau is assigned a code number for identification purposes so that the bureau may be assured that information is transmitted only to authorized persons.

Just to sum up briefly, I would like to say that existing Federal law provides an adequate avenue for consumers to insure the accuracy of information contained in credit reports. Moreover, that law does not place unreasonable burdens upon the consumer credit industry, nor does it create unreasonable delay in the credit granting process or cause any undue expense which must ultimately be borne by the consumer. On the other hand, HB 570, through its requirement that a written copy be mailed to each consumer when a report is issued, whether or not he has been denied credit or some other benefit, would do all these things without accomplishing any substantial or significant benefit to the consumer.

Finally, I wish to thank the Committee for this opportunity to express our views on HB 570 and to assure you that we would be glad to develop and supply any other facts or details you may require in your consideration of this measure. Also, I'm certain that other representatives of the industry would be glad to provide the Committee with any further input they may desire.

Dean Ehrich

DEAN EHRICH
President
ALASKA RETAIL ASSOCIATION, INC.

HB

572

"An Act relating to the disclosure of geographical distribution of loans."

COMMITTEE REPORT

1/15/76

HOUSE

Mr. Speaker: Date 2/25/76

The Committee on COMMERCE has had HB 572 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

(X) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____	_____	_____
Joe Pace	" "	_____
D. Hall	" "	_____
_____	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

Freeman recommends: DO NOT Pass

_____ recommends: Do not pass

_____ recommends:

D. Hall Chairman

Jen -

Xerox, file to committee members + file

JC.

January 22, 1976

Representative Bob Bradley, Chairman
House Commerce Committee
Pouch V, State Capitol
Juneau, Alaska 99811

Dear Representative Bradley:

I am writing you in regard to House Bill 572. As you are aware the thrust of this bill is in requiring financial institutions which hold state monies to disclose the geographical location (by census enumeration district) of loans secured by residential real property. Such a requirement would enable the public to determine if financial institutions are "red-lining".

I know of at least one bank that was, if not still, doing so. This past summer my brother and I looked into purchasing a home. Upon phoning our bank I was informed that the terms of a housing loan would vary with the location of the property. For example, the bank stated, if the home was located in Nunaka Valley the Loan would be for a much shorter duration. As it was, my brother and I did not pursue the idea and as such I never thought too much about the bank's statements.

Since that time, however, I have become quite interested in the dynamics of the housing market and crisis. The effect of red-lining is apparent. The practice simply creates a self-fulfilling prophecy in regard to the deterioration of the area marked off. I do not wish to restrict financial institutions' right to lend money as they see fit. HB 572, by simply compelling public disclosure of the information delineated in the bill would not do that. Rather, the requirements of that bill would ensure that the Municipality and the State have at hand information pertinent to any attempt to remedy the housing crisis.

I therefore request your strong support of HB 572. Passage of this bill would exemplify the House's concern for affirmative action in addressing possible solutions to Anchorage's housing emergency.

Sincerely,

James F. Brelsford

James F. Brelsford
P.O. Box 3-3997
Anchorage, Alaska 99501

cc: Representative Joe McKinnon
Sponsor, HB 572

Alaska Statebank
Robert E. Barnes, President
P. O. Box 240 Anchorage, Alaska 99510 907/277-5661

February 6, 1976

Honorable Bob Bradley
Alaska House of Representatives
224 Foster
Juneau, Alaska 99801

Dear Mr. Bradley:

SUBJECT: House Bill No. 572

After careful reading of House Bill No. 572, I would like to express my opposition to this bill in its present form. As you know, Congress has recently enacted Public Law 94-200, and Title 3 of this law is referred to as the "Home Mortgage Disclosure Act of 1975". The Congress held extensive hearings and have enacted a law which I believe will effectively deal with the so-called "red-lining problem". House Bill No. 572 goes far beyond the requirements of Public Law 94-200 for information to be supplied by financial institutions.

The "Home Mortgage Disclosure Act of 1975" requires that banks maintain records which would be available for public inspection giving the number and total dollar amount of mortgage loans which are originated or purchased during each fiscal year in each standard metropolitan statistical area within which the depository institution has an office. The Act further requires that the information to be maintained shall be itemized to show the number and dollar amount by census tracts, where readily available at a reasonable cost, as determined by the Board of Governors of the Federal Reserve System, or otherwise by Zip code. We will also have to maintain records for mortgage loans which are secured by property outside the standard metropolitan statistical areas and we will have to itemize the number and dollar amount of mortgage loans which are federally insured or guaranteed; the number and dollar amount of mortgage loans made to mortgagors who are not residing on the property securing the mortgage loans; and the number and dollar amount of home improvement loans. The maintenance of these records will represent a substantial burden on financial institutions.

House Bill No. 572 requires a great deal more detailed information and would represent an excessive burden on the financial institutions in Alaska. The banks in Alaska simply cannot press a button on a computer to generate the information called for in House Biil No. 572. We would have to extensively rewrite our computer software and there is some doubt in my mind that we can design programs to generate the data. The programs would be extremely complex and would substantially increase our operating costs. The higher costs would inevitably be passed on to the consumer.

I think that Public Law 94-200 will effectively deal with the national "red-lining problem" in urban areas and it is not necessary for the State of Alaska to go beyond the requirements of this law (which was passed after extensive deliberation by the U.S. Congress) because I do not believe the problem exists in our State.

Sincerely,

R E Barnes

Robert E. Barnes
President

REB:ph

MINUTES
HOUSE COMMERCE COMMITTEE
January 19, 1976
Testimony on HB 572

Representative McKinnon, sponsor, presented an explanation of HB 572 and the purpose of the bill.

He explained that present Federal law requires lending institutes to report loans by zip code areas. This is not realistic in Alaska. The bill would require lending institutes to report by cnesus divisions to the State of Alaska.

Presently some areas in Anchorage are being "red lined" by lending institutes. Consumers are being refused loans for property or it is made difficult for them to obtain one by being forced to pay excessive down payments, higher interest rates, or the parcels are under appraised forcing the consumer to pay the difference between the appraised value and the selling price. Loans are being denied on the basis of area in which the property is located instead of the consumer's credit record.

Rep. McKinnon further stated that banks must report under the Federal law and an addition such as this would not be costly to the institutes. The change would make the information useful to the State.

Rep. Urion questioned why such measures were necessary. From his past experience, he did not know of any lending institutes which were red lining any districts in the Anchorage area.

Rep. Fischer requested that the Chairman contact the banks to see if the information could be obtained without this legislation.

Rep. Rhode questioned whether or not the Division of Banking had been notified. Rep. Bradley confirmed that the Administration had been notified.

Jamie Love, Executive Director of the Alaska Public Interest Research Group testified in favor of the bill. He related an experience of a resident in the Anchorage area who wanted a home improvement loan so that she could rent out her home. The bank refused because of the area which her home was located. Mr. Love stated that he had met with Nunaka Valley residents who have had the sam problems. He understood that the Muldoon area residents were having the same problems. He also related that the University of Alaska through the Urban Housing Institute had done a study of this trend.

Alaska Statebank
Robert E. Barnes, President
P. O. Box 240 Anchorage, Alaska 99510 907/277-5661

February 6, 1976

Honorable Bob Bradley
Alaska House of Representatives
224 Foster
Juneau, Alaska 99801

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SUBJECT: House Bill No. 572

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Sincerely,

R E Barnes

Robert E. Barnes
President

REB:ph

PEOPLES BANK & TRUST

POUCH 7007 • 8TH AVENUE AND G STREET • ANCHORAGE, ALASKA 99510
TELEPHONE (907) 279-7511

JOHN F. KAMPER
VICE PRESIDENT

File

February 19, 1976

Representative, Bob Bradley
Alaska State House of Representatives
Pouch V
State Capitol Building
Juneau, AK 99881

Dear Representative Bradley:

RE: House Bill #572

On January 15, 1976, House Bill #572 was introduced. This proposed bill is in regard to the disclosure of geographical distribution of loans.

The bill is presumably designed to thwart "red-lining" and is similar to proposed federal legislation. The additional reporting, accounting, and record keeping that would be required for this bill puts an undue burden on the lender. The proposed federal legislation would have different requirements and would mean double reporting and record keeping.

In the State of Alaska, with such vast geographical areas, it would seem that "red-lining" is not something that can be readily identified. Even in our large cities, with their great demand for housing, it seems that "red-lining" is not a problem.

I have to conclude that this type of legislation is of the "tag along" variety. It serves no purpose for anyone involved.

I would consequently urge you to vote against this bill.

Very truly yours,

John F. Kamper

JFK:sh

MEMBER FEDERAL DEPOSIT INSURANCE CORPORATION A FULL SERVICE BANK

HB

578

ALASKA SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS
P. O. BOX 675
ANCHORAGE, ALASKA 99501

February 6, 1976

Representative Bob Bradley
Chairman, House Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Bradley:

Thank you for the letter notifying me that your committee would hear testimony on HB 578 at 8:00 a.m., January 29, 1976.

The postmark on the envelope which contained the notice was January 26, 1976. I received the notice approximately 3:00 p.m. January 28, 1976. A time frame of this nature makes it totally impossible for anyone to catch an airplane to Juneau to deliver testimony or to even telephone you to relay any thoughts one might have on this or any other bill. All of this, of course, would have to be based upon the assumption that one had already received, studied and developed opinions upon this proposed piece of legislation, which in this case I had not. If this is the normal operating procedure of the legislature, citizen criticism that the legislature does not allow for adequate public input is justified.

I see that this bill was introduced January 15, 1976 at the request of the Governor. I am at a loss to understand why the Governor and/or the Commissioner of Commerce did not, as far as I know, seek comment from existing regulatory boards prior to the introduction of this bill or supply members of regulatory boards with copies of the bill at the time it was introduced in order that those affected would have an opportunity to study the bill's provisions and develop a position thereon.

I have obtained a copy of this bill, studied it, discussed the provisions with a majority of the members of both the State Board of Public Accountancy and the Board of Directors of the Alaska Society of Certified Public Accountants and have the following observations:

1. This bill appears to be a direct result of the problems the dentists and the attorneys have encountered in challenges to their examining and grading practices.

2. It would seem to me that a natural function of the Department of Commerce would be those items covered by Article 2, Section 08.03.020 (1) and (2) without the need to create a five-person commission.

3. Article 2, Section 08.03.030 (A)
Why must one member be an attorney? Article 2, Section 08.03.090 provides for legal council. This provision appears to be a special interest clause.

4. Article 3, Powers and Duties of the Commission
Again, as observed in 2. above, these responsibilities appear to be a natural ongoing function of the Department of Commerce and/or the legislature and do not support the need to create another government commission.

5. The State Board of Public Accountancy has, on more than one occassion, been told by the Commissioner of Commerce, or members of his staff, that there was no money in the 1975-76 budget and no money would be requested in the 1976-77 budget to fund activities which the Board wanted to undertake that would aid them in being current and responsible to the public and to the members of the profession which they help regulate. Yet approximately $100,000 is being sought to establish another layer of government to do what can be done by existing units for the same or a lesser amount.

6. HB 578 provides that the five-person commission will meet at least once each month. If all five members met for two days each month the State would receive 120 man days of effort or one-half of the man days available to one full-time employee. This for $100,000?

   Let us look at the following alternative:

Salary - one full-time person	$ 30,000
Fringe benefits 21%	6,300
	$ 36,300

   That leaves $63,700 to fund travel and other costs, and the State would have twice as many man days of work available to perform the review and report writing functions described in this bill.

7. I can not speak for other State of Alaska regulatory boards or other professional societies, but as a member of the State Board of Public Accountancy and as President of the Alaska Society of Certified Public Accountants I am certain that a concerted effort is being made by members of the Board and the Society to stay current and responsive to public and professional needs.

8. I believe that your committee should hold additional hearings on this bill in Anchorage and adequate advance notice of these hearings should be given to all affected organizations.

Very truly yours,

Vernon R. Johnson,
President, Alaska Society of
Certified Public Accountants
Vice-President, State Board of
Public Accountancy

VRJ:KME

cc: The Honorable Jay Hammond, Governor
Senator Jay Kerttula
Senator Ed Willis
Senator Mike Colletta
Representative Tim Wallis
Representative Helen Fischer
Representative Oral Freeman
Representative Ramona Kelley
Representative Leo Rhode
Representative Richard Urion
Commissioner Langhorne Motley
Members of the State Board of Public Accountancy
Members of the Board of Directors Alaska Society of CPAs
Anchorage Daily News
Anchorage Times
Members of Alaska Society of CPAs

OFFICE PHONE 456-5070
EVENINGS 452-3637

EARL E. COOK REAL ESTATE
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FAIRBANKS, ALASKA 99707

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January 28, 1976

Rep. Bob Bradley, Chairman
House Commerce Committee
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mr. Bradley:

Thank you for the notice on the hearing for January 29, 1976 on HB 578. I have not yet had an opportunity to read this bill, and have only read some News Paper articles about the bill. I will not be able to attend the hearings.

I do have some very strong opinions on the system of Boards and Commissions in this State. I feel there are problems and inefficiencies, but I do not feel in the case of the Real Estate Commission that our problem is internal with the commission or that we are trying to protect our own or anything else sinister. I have been on the Real Estate Commission 3 years. We sincerely would like to protect the consumer and revoke licenses where justification is shown or to prosecute those operating without a license where one is required. But we must follow due process, with proper hearings and with prosecution by the Attorney General's Office on behalf of our Commission.

This is where I see the real problem. In the 3 years I have been on the Real Estate Commission we have almost no cooperation from the Attorney General's office. They don't seem to care and don't seem to have time. We have some very good complaints about non licensed activity where the State is involved with the alleged violator. This 2½ year old complaint by an Alaskan citizen has yet to see any definitive action by the Attorney General's Office. There are other examples also.

So unless HB 578 contains a mechanism to assure that alleged wrong doing by those who are licensed or those who should be is followed up by the office of the Attorney General, there will be no protection of the consumer and all your reforms will do no good. I do not see the problem being one of Credentialing of commission members only, but being much broader.

There was supposedly a major study in the last year of Boards and Commission and their function. Yet the Real Estate Commission members were not contacted or interviewed about the study. Thus, any study and its conclusions would have to be lacking in my opinion, especially as relates to some of the criticism I have seen expressed in the press under quotes from Division of Occupational Licensing personnel.

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We on the Real Estate Commission have no objection to a public or lay member being on the Commission. We are anxious that others see that our problems are not from within, but are cause by lack of follow up by the office of the Attorney General and frustration with forms, paper work and the Bureaucracy with which we must deal.

Thank you for your attention to my comments. I feel the bill implies poor intentions and conflicts of interest by all Boards and Commissions. This would be the exception rather than the rule in my opinion. Our Commission works hard to do a good job and to properly handle consumer complaints, but our hands are tied after a point. Somewhere along the line and possibly with amendments to HB 578 I hope this will be corrected.

Sincerely,

Jeffry J. Cook, Secretary
Alaska Real Estate Commission

OFFICE PHONE 456-5070
EVENINGS 452-3637

EARL E. COOK *REAL ESTATE*

224 3RD AVE. • BOX 2134
FAIRBANKS, ALASKA 99707

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January 28, 1976

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House Commerce Committee
House of Representatives
Pouch V
Juneau, Alaska 99811

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Sincerely,

Jeffr[illegible] J. Cook, Secretary
Alaska [illegible]eal Estate Commission

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

Division of Occupational Licensing
Board of Nursing
2702 Denali St. Rm 206
Anchorage, AK 99503
phone: 276-7969

10 February 1976

Honorable Bob Bradley
Pouch V
Capitol Building
Juneau, AK 99811

Dear Representative Bradley;

The Board of Nursing submits the following comments regarding pending legislation.

HB 578 "An Act creating the Alaska State Credentialing Review Commission." The board does not support this bill. The need for such a commission is questioned. Isn't the purpose of this Commission already inherent within the functions and responsibilities of the department or the Division of Occupational Licensing?

This bill seems to be adding to the bureaucracy at the expense of the taxpayer. Increased accessibility of the office of the attorney general to the boards would perhaps be more valuable than creating another area for that office to respond to.

Sincerely,

Joyce Hazelbaker, R.N.
Executive Officer

LAW OFFICES OF
FAULKNER, BANFIELD, DOOGAN & HOLMES
SUITE 201, 311 FRANKLIN STREET
JUNEAU, ALASKA 99801

TEL. 586-2210
AREA CODE 907

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WILLIAM B. ROZELL

JAN VAN DORT
LAWRENCE T. FEENEY
CHARLES N. DRENNAN
PATRICK E. MURPHY
TOM BATCHELOR

February 23, 1976

The Honorable Bob Bradley
Chairman, House Commerce Committee
State Capitol
Pouch V
Juneau, Alaska 99811

Re: House Bill No. 578

Dear Chairman Bradley:

On behalf of Household Finance Corporation, I have been requested to inform you that the broad language contained in the definition section of this bill would give the Credentialing Review Commission the authority to affect business entities and enterprises which normally would not be licensed or are regulated under other portions of the statutes. AS 08.03.400(3) and (6) should be amended to provide that other business entities are exempted from the provisions of the act.

Very truly yours,

Jan Van Dort

JVD/amz
cc: H. K. Henry
J. M. Murray

Alaska State Legislature

House

JUNEAU ALASKA

February 26, 1976

MEMORANDUM

TO: Bob Bradley

FROM: Jennifer Peterson, Secretary
House Commerce Committee

SUBJECT: Correspondence concerning HB 578

I have reviewed the correspondence from William D. Bradshaw as per your request.

I believe this to be a perfect example of what Sharon Andrews was explaining to the Committee. The Boards need to be reviewed and analyzed as to their procedures and policies.

Mr. Bradshaw was simply trying to find out why the Board refused his license. The Board told him he needed six more months of experience and they he would have to take the test again whether he passed the first one or not. In each of his letters and ones written by his attorney, they requested an explanation of what kind of experience he needed and when would he be eligible for his license. In each reply he received, they simply stated again that he needed "more experience" without an explanation of why.

Sharon Andrews did finally answer the questions, however, the answer was not acceptable. She stated that: "It is my understanding that the Board has rot rejected Mr. Bradshaw's experience, or portions of it; but that in following established procedure for evaluating professional experience, has allowed only one half credit for Mr. Bradshaw's experience as a project engineer with a contractor. This policy is not a portion of the regulations adopted by the Board, but is part of the guidelines which the Board established for its use in evaluating 'professional experience'. I hope this information clarifies the situation for you." Mr. Bradshaw's attorney's reply, I believe, is na answer to it all (see attached).

In Mr. Bradshaw's cover letter, he offers three recommendations to be included in the bill based on his experiences.

RICE, HOPPNER & HEDLAND
ATTORNEYS AND COUNSELORS AT LAW
SUITE A-330 WENDELL STREET
P.O. BOX 2551
FAIRBANKS, ALASKA 99707
(907) 452-1201

JULIAN C. RICE
LLOYD I. HOPPNER
JOHN S. HEDLAND
GEORGE E. SMALL
MILLARD F. INGRAHAM

HUGH W. FLEISCHER
CHRISTOPHER R. COOKE
SAUL R. FRIEDMAN
PATRICK T. BROWN
DAVID A. ENGELS

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OF COUNSEL

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BETHEL OFFICE
P.O. BOX 555 (99559)
(907) 543-2850

VALDEZ OFFICE
P.O. BOX 466 (99686)
(907) 835-4365

January 22, 1976

Sharon Andrew, Director
State of Alaska
Department of Commerce & Economic Development
Pouch D
Juneau, AK 99811

COPY

Re: William D. Bradshaw

Dear Ms. Andrew:

I have received your letter of January 13, 1976 and a copy of the letter that was sent to me on December 8, 1975, but never received. I have reviewed your letter of December 8, 1975 and while I appreciate the candid manner in which you advised me of the Board's procedure, I am appalled by the secret way in which the Board considers applications. The statutes specifically provide that the Board is to be governed by the Administrative Procedures Act, which requires publication, notice and hearing of any and all regulations that the Board wishes to operate under. Now however, I am told that the Board has a "secret" regulation which has never been published and which the citizens of the State have never had a opportunity to comment on before its adoption. Although the Board may very well wish to operate under its "secret" regulations and "pull-up-the-ladder" on the new engineer applicants, nevertheless, the Board is bound to operate in conformity with the published and accepted regulations which are found in 12 AAC 36.010, et seq. These regulations were adopted pursuant to authority granted by statute in AS §08.48.011. Neither the statutes nor the published regulations contain anything close to the "secret" regulations you quoted to me in your letter of December 8, 1975. There is no question but that the experience that has been provided by Mr. Bradshaw meets the requirements of the statutes and of the published regulations, therefore,

it meets the requirements of law. It may not meet the requirements of the whims of the members of the Board, but it does meet the requirement of law.

Therefore, you are hereby requested to immediately issue the certification to Mr. Bradshaw. If the certification is not issued, I shall file a complaint in Superior Court on his behalf compelling you to issue the certification as required by law.

Very truly yours,

RICE, HOPPNER & HEDLAND

Lloyd I. Hoppner

LIH/cmb

January 29, 1976

Representative Bob Bradley
Chairman House Commerce Committee
Pouch V
Juneau, Alaska 99811

Subject: HB 578, "An Act Creating the Alaska State Credentialing Review Commission".

Dear Representative Bradley:

I received your notification on 28 January 1976 that the House Commerce Committee will hear testimony on HB 578, "A Act Creating the Alaska State Credentialing Review Commission". I am not presently familiar with HB 578, but will assume it addresses the current laws and regulations applicable to the operation of the State of Alaska occupational licensing boards. Correspondence is presently being exchanged between the State Board of Registration for Architects, Engineers and Land Surveyors and myself regarding their denial of my application for registration as a Professional Engineer in the field of civil engineering.

With this letter I am enclosing a file of correspondence that has been exchanged with the Board from 13 February 1975 through 22 January 1976. Included is a summary of comments pertaining to the correspondence exchanged between 13 February 1975 and 23 September 1975.

One of the major objectives of this correspondence has been to receive an explanation from the State Board of Registration for Architects, Engineers and Land Surveyors explaining the reasoning behind their denial of my license. After considerable effort and expense they have vaguely explained that certain categories of my experience is receiving one-half credit under unpublished policy of the Board. While my lawyer has informed me that a State policy estabtlished in this fashion is in violation of State regulations, the correspondence

has not explained why the Board utilizes a factor of one-half in evaluating this experience.

I believe that the State Board of Registration for Architects, Engineers and Land Surveyors under its present policy is violating the rights of the citizens of the State of Alaska. Under their present system of operation, a applicant cannot challenge the decisions of the Board by requesting a review of his application because the Board fails to provide the necessary information. Thus under the present system, the only recourse an applicant has is the expensive solution of appealing through the courts.

The present policy of the State Board of Registration for Architects, Engineers and Land Surveyors of not publishing their policies for evaluating experience leaves unregistered engineers in a undesirable position. An example would be a newly graduating engineer who still requires four years of experience to comply with the applicable State laws and regulations for professional registration. Without guidelines, he could spend the next four years in positions that he considered acceptable under the State laws and regulations, only to be informed by the Board that his experience is totally unacceptable and he will have to provide four more years of experience acceptable to the Board. An interesting question would be what experience the Board presently credits at a level of one hundred per cent acceptance. In my letter of 20 June 1975, I outlined my experience and excerpts from the State law and regulations that I interpreted as defining this experience to be completely acceptable.

I would like to submit three recommendations to the House Commerce Committee:

1.) That all policies the occupational licensing boards utilize in evaluating an applicant's application be published and made available to the public, and a copy be supplied to each applicant for registration.

2.) The occupational licensing boards be required to document each denial of registration based on the State laws and regulations and board policy, and furnish a copy to the applicant.

3.) That an appeals mediation board be established to review disputes, and thus establish an intermediate step between requesting a review by the occupational licensing board that denied the initial application for registration, and the more expensive process of appealing through the court system.

I sincerely hope you will evaluate the enclosed correspondence and form your own impressions about possible revisions to the State law and regulations that may be required.

My personnal feelings are that I have been treated very unfavorably by the State Board of Registration for Architects, Engineers and Land Surveyors. Whenever a government agency feels it does not need to explain its actions to a citizen, the laws and regulations that govern its operations should be revised.

I hope that this letter and enclosed information will be of assistance to the House Commerce Committee in evaluating HB 578 and if I may be of any further assistance, please feel free to contact me.

Respectfully yours,

William D. Bradshaw

William D. Bradshaw

WDB:ta

enclosure

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

February 13, 1975
Box 81712
College, Alaska 99701

Department of Commerce
State Board of Registration for Architects,
Engineers and Land Surveyors
Pouch D
Juneau, Alaska 99811

Dear Sir:

Please find enclosed page 1, page 6, and a letter of reference from Mr. John L. Burdick, P.E. The rest of my application to take the professional engineering examination will be submitted as soon as I receive a copy of the "Law &Regulations." The University of Alaska has sent a copy of my college transcript to your office and I hope it will be placed with my application.

Respecfully yours,

William Douglas Bradshaw

William Douglas Bradshaw

STATE OF ALASKA
DEPARTMENT OF COMMERCE
Valid only for 1979

BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS AND LAND SURVEYORS

POUCH D
JUNEAU, ALASKA 99811
PHONE (907) 465 2540

I HEREBY APPLY FOR REGISTRATION BY EXAMINATION ( ) RECIPROCITY (X) FOR:

PROFESSIONAL ARCHITECT ____ ARCHITECT EQUIVALENCY ____
PROFESSIONAL LAND SURVEYOR ____ FUNDAMENTALS OF ENGINEERING ____
PROFESSIONAL ENGINEER IN THE FIELD OF Civil Engineering

A certified check, bank draft or money order accompanies this application. $25.00 if application for registration by reciprocity; $40.00 for taking of the examination. Fees are retained after Board action. Make payable to State of Alaska. NOTE: Separate applications are required if registration is desired in more than one branch.

1. GENERAL INFORMATION

Name in full William Douglas Bradshaw
Usual written signature William Douglas Bradshaw
RESIDENCE address Box 81712 College, Alaska 99701
BUSINESS address Box 81712 College, Alaska 99701
Firm name Between Positions
Present position Between Positions
Date of birth March 25, 1946 Are you a citizen of the U.S? Yes(X), No ( ) If yes, by birth X, by naturalization ____. If no, what is your status? ____
Legal resident of what state? Alaska When did you become a resident? 1946

Attach photo with face not less than 1" on each side. Affix signature at bottom of photo

2. REFERENCES

Give names and addresses of five references, not relatives, not listed under experience record summary, section 8, who are responsible architects, engineers or land surveyors. Three of these shall have professional registration and have personal knowledge of your character and professional activities.

Name	Address	Position	Cert No.	State
Mr. George Easley, P.E.	Bradley Construction Company Box 4-2220 Anchorage, Alaska 99502	Senior Vice President		Alaska
Mr. John L. Burdick, P.E.	Dept. of Civil Engineering, University of Alaska, Fairbanks, Alaska 99701	Head, U of A C.E. Dept.		Alaska
Mr. Elbert F. Rice, P.E.	Dept. of Civil Engineering, University of Alaska, Fairbanks, Alaska 99701	Prof., U of A C.E. Dept.		Alaska
Mr. E. Laurence Bennett, P.E.	Dept. of Civil Engineering, North Carolina State University, Raleigh, North Carolina 27607	Visiting Professor		Alaska
Mr. William McMullen	Bradley Construction Company, Box 4-2220, Anchorage, Alaska 99502	Vice President		Alaska

(Letters from these references are required by the applicant and filed with the application.)

3. PREVIOUS REGISTRATION

E.I.T. REGISTRATION Name of state Alaska 1968 Year 1968 Hours of written examination 8

PROFESSIONAL REGISTRATION (List only state of original registration and/or registration by exam)

Type of License	State	Year Registered	Hrs. written examination	Reciprocity	Grandfather Clause	Active or Lapsed

Have you ever had your registration refused or revoked in any state? No If yes, attach your statement giving full particulars.

(Turn this page over)

4. MEMBERSHIP IN SOCIETIES, ASSOCIATIONS OR INSTITUTIONS (Professional or Scientific)

Name of Organization	Location	Grade of Membership	Office	Date

5. EDUCATION

State in chronological order under the name of each college, university or technical school attended, the time spent at each and if a graduate, the year of graduation. If not an Engineering or Architectural graduate, outline nature and extent of studies. Submit with the application a certified transcript of all education entered here.

Name of Institution	Technical Course	Other	From-To	Year Graduated	Degree
University of Alaska			1964-1969	1969	B.S.C.E.
Univeristy of Alaska			1971-1973	1973	M.S.E.M.

6. RULES OF PROFESSIONAL CONDUCT

I have received and read a copy of the Rules of Professional Conduct set forth in Title 12, Chapter 36, Article 2 of the Alaska Administrative Code. I hereby subscribe to and agree to exemplify these Rules of Professional Conduct.

William Douglas Bradshaw
Written signature of applicant

7. AFFIDAVIT

STATE OF Alaska }
Borough-County of 1st Judicial } ss.

William Douglas Bradshaw being first duly sworn, deposes and says: I am the Applicant named in this application, have read the contents thereof, and to the best of my knowledge and belief, the foregoing statements are true and correct in every respect.

Subscribed and sworn to before me this 12th day of February, 1975
(SEAL)

William Douglas Bradshaw
Signature of Applicant

My Commission expires 3-28-77

Dorothy J. Hanson
Signature of Notary Public

Applicant William Douglas Bradshaw

AFFIDAVIT FOR REGISTERED PROFESSIONAL ARCHITECTS, ENGINEERS OR LAND SURVEYORS

I hereby certify that I have known the applicant for 10 years, that I have personal knowledge that he has been engaged in the practice of
[ ] land surveying
[✓] engineering
[ ] architecture
for 6 years and that he is of good moral character and reputation.

Name [illegible]
Address Univ. of Alaska
Certificate No. [illegible] State Alaska

Subscribed and sworn to before me this 12th day of February, 19 77
[illegible]
Notary Public in and for the State of

MY COMMISSION EXPIRES
MARCH 28, 1977

Residing at Fairbanks, Alaska

• • •

Applicant William Douglas Bradshaw

AFFIDAVIT FOR REGISTERED PROFESSIONAL ARCHITECTS, ENGINEERS OR LAND SURVEYORS

I hereby certify that I have known the applicant for 12 years, that I have personal knowledge that he has been engaged in the practice of
[ ] land surveying
[✓] engineering
[ ] architecture
for 6 years and that he is of good moral character and reputation.

Name [illegible]
Address [illegible]
Certificate No. [illegible] State [illegible]

Subscribed and sworn to before me this 12th day of February, 19 77
[illegible]
Notary Public in and for the State of

MY COMMISSION EXPIRES
MARCH 28, 1977

Residing at Fairbanks, Alaska

• • •

Applicant William Douglas Bradshaw

AFFIDAVIT FOR REGISTERED PROFESSIONAL ARCHITECTS, ENGINEERS OR LAND SURVEYORS

I hereby certify that I have known the applicant for 7 years, that I have personal knowledge that he has been engaged in the practice of
[ ] land surveying
[✓] engineering
[ ] architecture
for 6 years and that he is of good moral character and reputation.
4 yrs college

Name [illegible]
Address [illegible]
Certificate No. [illegible] State [illegible]

Subscribed and sworn to before me this 12th day of February, 19 77
[illegible]
Notary Public in and for the State of

MY COMMISSION EXPIRES
MARCH 28, 1977

Residing at Fairbanks, Alaska

COLLEGE OF MATHEMATICS, PHYSICAL SCIENCES
AND ENGINEERING

UNIVERSITY OF ALASKA
COLLEGE, ALASKA 99701

February 12, 1975

State Board of Registration
for Architects, Engineers
& Land Surveyors,
Pouch D,
Juneau, Alaska 99801

Gentlemen:

I have known William Bradshaw since 1964.

Bill was a student in a number of my classes and I have had some knowledge of his engineering employment since graduation.

He is intelligent, conscientious and possesses good common sense.

I fully recommend him for licensing as a professional Engineer (Civil).

Very truly yours,

John L. Burdick, Head
Department of Civil
Engineering
Alaska 933-E

JLB/jo

PLEASE REPLY BY AIRMAIL

ALASKA
INTERNATIONAL
CONSTRUCTION, INC.
P.O. Box 60029
Fairbanks, Alaska 99701
(907) 452-7171
Telex: 090-35454

Lon McDermott
President

February 25, 1975

Department of Commerce
State Board of Registration for Architects,
Engineers and Land Surveyors
Pouch D
Juneau, Alaska 99811

Dear Sir:

Please find enclosed the Summary Sheet of Section 8, Experience Record Summary, and a letter of reference from Mr. William B. McMullen, P.E.

In reading through Register 50, Title 12., Chapter 36., Article 3., 18, 19, 20, and 22; I noticed that four categories of experience are defined; "professional work", "responsible charge of work in the field", and "sub-professional work." The Summary Sheet of Section 8 does not contain a column for time in "professional work" and thus I have listed Engagements 5. and 6. in column 3. This form is also in conflict with the categories listed on the Experience Record Summary. I would appreciate farther clarification from you about this apparent discrepancy and notification about the status of my application as to whether it has been completed correctly.

Please address all future correspondence to the following address:

Mr. William D. Bradshaw
Alaska International Construction, Inc.
Box 60029
Fairbanks, Alaska 99701

Respectfully yours,

William D. Bradshaw

Summary Sheet of Section 8

ALASKA BOARD OF REGISTRATION FOR PROFESSIONAL ARCHITECTS, ENGINEERS AND LAND SURVEYORS

Name of Applicant William Douglas Bradshaw

NOTE: Totals in Column (1) and (2) equal (3)
Totals in Column (3) and (4) equal (5)

Engagement No.	Date		Professional Work			(4)	(5)
Organization Name	From	To	(1) In Design Months	(2) In Responsible Charge Months	(3) Total Professional time (1)+(2) Months	Sub-Professional work Months	TOTAL TIME Months
Education - Undergraduate	1964	1969			48		48
Education - Graduate	1971	1973			12		12
1. Burgess Construction Company Box 4-2520 Anchorage, Alaska 99509	4/74	1/75		10	10		10
2. Michael Baker Jr., Inc. Box 60109 Fairbanks, Alaska 99707	6/73	3/74	1	9	10		10
3. Fairbanks North Star Borough Fairbanks, Alaska 99707	10/72	12/72		2	2		2
4. Alaska Dept. of Highways Box 3-1000 Juneau, Alaska 99801	5/72	10/72		6	6		6
5. Alaska Dept. of Highways Box 3-1000 Juneau, Alaska 99801	4/71	8/71			5		5
6. Alaska Dept. of Highways Box 3-1000 Juneau, Alaska 99801	5/69	8/69			3		3
7. Miscellaneous	1961	1968	0	0	0	0	0
TOTALS			1	27	96	0	96

Applicant William Douglas Bradshaw

Engagement No. 1.

EXPERIENCE RECORD SUMMARY
(Additional forms will be supplied upon request)

Date Verified

Name and address of Supervisor (not deceased)	Dates of Employment Give Month and Year	Experience (Years in Months)				
		In Design	Responsible Charge	Prof.	Sub. of Prof	Total Time
r. Thomas Hendrix, P.E. ice President laska International Industries ox 60029 Airport Annex airbanks, Alaska 99701	4/74-1/75		10			10

Title of job and Description of work. Be concise. Include magnitude and complexity of work on which you were engaged.

Construction Bid Estimator. Independent preparation of estimates of costs for proposed projects to include; inspection of project location, developing methods of construction, estimating equipment and manpower requirements, calculating manpower and equipment production rates, preparing estimates of project manpower and equipment costs, calculating labor and equipment hourly rates, and locating and evaluating necessary subcontractors and materials. Preparation of project progress schedules; critical path method and bar charts. Preparation of project budgets.

Engagement No. 2.

EXPERIENCE RECORD SUMMARY
(Additional forms will be supplied upon request)

Date Verified

Name and address of Supervisor (not deceased)	Dates of Employment Give Month and Year	Experience (Years in Months)				
		In Design	Responsible Charge	Prof.	Sub. of Prof.	Total Time
. Cecil E. Palmer, P.E. ice President chael Baker Jr., Inc. x 9997 ckson, Mississippi 39206	6/73-3/74	1	9			10

Title of job and Description of work. Be concise. Include magnitude and complexity of work on which you were engaged.

Assistant Engineer. Supervise the preparation and dissemination of field information in a usable form for design, responsible for the updating of office alignment sheets for the North slope haul road and the trans-Alaska pipeline, designed a small portion of highway realignment for the Livengood to Yukon River highway, supervised the preparation of navigation permits for the crossings of navigable streams and rivers along trans-Alaska pipeline route, and assisted in preparing studies of the expected hydraulic characteristics of rivers along the trans-Alaska pipeline route after the excavation of river borrow.

(Turn this page over)

Applicant William Douglas Bradshaw

Engagement No. 3.

EXPERIENCE RECORD SUMMARY
(Additional forms will be supplied upon request)

Date Verified

Name and address of Supervisor (not deceased)	Dates of Employment Give Month and Year	Experience (Years in Months)				
		In Design	Responsible Charge	Prof.	Sub. of Prof.	Total Time
r. Walt Pierce, P.E. orough Engineer orth Star Borough airbanks, Alaska 99707	10/72-12/72		2			2

Title of job and Description of work. Be concise. Include magnitude and complexity of work on which you were engaged.

Civil Engineer. In charge of engineering for the "Big Dipper" recreation center renovation and inspector for the Main Junior High renovation.

Engagement No. 4.

EXPERIENCE RECORD SUMMARY
(Additional forms will be supplied upon request)

Date Verified

Name and address of Supervisor (not deceased)	Dates of Employment Give Month and Year	Experience (Years in Months)				
		In Design	Responsible Charge	Prof.	Sub. of Prof.	Total Time
r. James Nelson, P.E. istrict Design Engineer laska Dept. of Highways ox 3-1000 uneau, Alaska 99801	5/72-10/72		6			6

Title of job and Description of work. Be concise. Include magnitude and complexity of work on which you were engaged.

Location Project Engineer, HEA II, grade 16. Supervised the gathering of design data, highway design, and reconnaisance work on route selection.

Applicant William Douglas Br[illegible]haw

EXPERIENCE RECORD SUMMARY
(Additional forms will be supplied upon request)

Engagement No. 5. Date Verified

Name and address of Supervisor (not deceased)	Dates of Employment Give Month and Year	Experience (Years in Months)				
		In Design	Responsible Charge	Prof.	Sub. of Prof.	Total Time
r. Barry L. Bergdoll, P.E. roject Engineer laska Dept. of Highways ox 3-1000 uneau, Alaska 99801	4/71-8/71			5		5

Title of job and Description of work. Be concise. Include magnitude and complexity of work on which you were engaged.

Grade Inspector, HEA I, grade 14 step C. Employed on the Sitka Bridge Project, responsible for assuring contractor's compliance with project specifications in the placing and compacting of roadway embankment, evaluated excavation for suitability in building roadway embankment, inspected the pouring and finishing of curb and gutter and sidewalk, installation of storm drains and inlets, and water lines.

EXPERIENCE RECORD SUMMARY
(Additional forms will be supplied upon request)

Engagement No. 6. Date Verified

Name and address of Supervisor (not deceased)	Dates of Employment Give Month and Year	Experience (Years in Months)				
		In Design	Responsible Charge	Prof.	Sub. of Prof.	Total Time
r. James Nelson, P.E. istrict Design Engineer laska Dept. of Highways ox 3-1000 uneau, Alaska 99801	5/69-8/69			3		3

Title of job and Description of work. Be concise. Include magnitude and complexity of work on which you were engaged.

Engineer in Training, HEA I, grade 14. Designed storm drain systems, frontage road, intersections, retaining wall, for the Sitka Bridge Project. Calculated estimated quantities of materials.

Applicant William Douglas Bradshaw

Engagement No. 7.

EXPERIENCE RECORD SUMMARY
(Additional forms will be supplied upon request)

Date Verified

Name and address of Supervisor (not deceased)	Dates of Employment Give Month and Year	Experience (Years in Months)				
		In Design	Responsible Charge	Prof.	Sub. of Prof.	Total Time
	1961-1968	0	0	0	0	0

Title of job and Description of work. Be concise. Include magnitude and complexity of work on which you were engaged.

Employed in summer jobs as a headchainman, instrumentman, party chief, assistant project engineer, and inspector by John D. Ballard, P.E., Alaska Department of Highways, Morrison-Knudsen Company, and S. S. Mullens

Engagement No.

EXPERIENCE RECORD SUMMARY
(Additional forms will be supplied upon request)

Date Verified

Name and address of Supervisor (not deceased)	Dates of Employment Give Month and Year	Experience (Years in Months)				
		In Design	Responsible Charge	Prof.	Sub. of Prof.	Total Time

Title of job and Description of work. Be concise. Include magnitude and complexity of work on which you were engaged.

(Turn this page over)

P. O. Box 60109
Fairbanks, Alaska 99701

February 24, 1975

State of Alaska
Department of Commerce
Division of Occupational Licensing
Pouch D
Juneau, Alaska 99801

Re: William D. Bradshaw, E.I.T.

Dear Sirs:

Mr. Bradshaw worked as an employee of Michael Baker, Jr., Inc., under my general supervision during the peri from June 1973 through March 1974. His work assignments during this period included:

1. Survey Party Chief - Roadway Surveys
2. Survey Coordination and Supervision - Roadway Surveys
3. Roadway Design
4. Preparation of engineering drawings and exhibits necessary for road entrance permits onto Alaska State Highway system
5. Preparation of engineering drawings and exhibits for Corps of Engineers permits for work in navigable streams
6. Coordination of technical work effort in the analysis, collation and indexing of survey data for pipelines and roads

All of the noted work was accomplished under the direct supervision of a Registered Professional Engineer.

In the accomplishment of his assigned engineering duties, Mr. Bradshaw has shown a high degree of professional competence. His interest in and enthusiasm for the work of an engineer are highly commendable.

I strongly support Mr. Bradshaw's application for registration as a Professional Engineer in the State of Alaska.

Sincerely yours,

William B. McMullen, P.E.
Registration No. 2253E

WBMc/ew

bcc: Mr. P. A. Koonce
Mr. D. C. Harris
Mr. W. D. Bradshaw
Personnel File

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF COMMERCE

465-2540

DIVISION OF OCCUPATIONAL LICENSING

POUCH D — JUNEAU 99801

BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS AND LAND SURVEYORS

March 24, 1975

William D. Bradshaw

Dear Applicant:

You may take the exam on the contingency basis pending receipt of your work verifications. Mr. Bergdall, Mr. Pierce, Mr. Palmer and Mr. Hendrix have not replied.

You have been assigned to:

____Anchorage; Community College Bldg. "G", Rooms 102 & 103.

XX Fairbanks; U. of Alaska Campus, Room 109 Duckering Bldg.

____Juneau; 803-3rd St. in Douglas, Hwy. Dept. Bldg., Bridge Design Room.

The examinations will be:

____Fundamentals of Engineering	April 19	8:00 AM-12 PM & 1:00 PM-5:00 PM
XX Professional Engineering	April 20	8:00 AM-12 PM & 1:00 PM-5:00 PM
____Land Surveying	April 19-20	8:00 AM-12 PM & 1:00 PM-5:00 PM each day.

If you plan on being in another location for the examination please contact this office no later than April 7. If you wish to postpone the examination your request must be received in writting before the exam date.

Your application will be considered abandoned if you 1) fail to appear for the examination without a postponement and 2) after two postponements, fail to appear for examination.

A memorandum on exam information and the instructions for the Entry Level Survey are enclosed for your use.

The results of the examination will not be available for approximately 12 weeks after the exam date. If you have any change of address please notify this office immediately to assure receipt of your exam results.

Very truly yours,

Sharon Andrew
Director

Leilani Kingsbury

(Mrs.) Leilani Kingsbury
Licensing Examiner

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF COMMERCE

465-2540

DIVISION OF OCCUPATIONAL LICENSING / POUCH D JUNEAU 99801

BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS AND LAND SURVEYORS

May 16, 1975

Mr. William D. Bradshaw
ALASKA INTERNATIONAL CONSTRUCTION, INC.
Box 60029
Fairbanks, AK 99701

Dear Mr. Bradshaw:

At its first meeting the newly appointed board reviewed your application for admittance to the April 19-20, 1975 examination. I regret to inform you that at this time it was not approved.

The Board concurred that you need 18 more months of professional experience in responsible charge. Your estimating and inspection work does not qualify as professional work in responsible charge.

If you attended the April 19-20, 1975 examination, the Board concurred that the exam grade will be invalid. Whether or not you pass you will be required to take it again when you become eligible.

Please update your experience record in letter form when you have fulfilled the required experience time. Be sure to include the names and addresses of your supervisors in order for your experience to be verified.

Your application will be considered abandoned after 18 months if we do not receive any correspondence by that time and filing a new application will be required.

Very truly yours,

Sharon Andrew
Director

L. Kingsbury

(Mrs.) Leilani Kingsbury
Licensing Examiner

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF COMMERCE

465-2540

DIVISION OF OCCUPATIONAL LICENSING / POUCH D — JUNEAU 99801

BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS AND LAND SURVEYORS

May 22, 1975

Mr. William D. Bradshaw
ALASKA INTERNATIONAL CONSTRUCTION, INC.
Box 60029
Fairbanks, AK 99701

Dear Mr. Bradshaw:

I have discussed your question on making an appeal to the Board with the Director, Sharon Andrew. Please be advised that there are two possible steps to follow.

First, you may write a letter to the Board explaining specifically why you feel that your work experience meets the requirements. A more detailed description of your work experience would be helpful. Ask that you would like to appear before the Board at its next meeting. We will notify you when the next meeting will be held. Right now the next meeting will be in Anchorage sometime in July as soon as the grade results are back from NCEE.

Second, if you are not satisfied with the outcome after meeting with the Board you may have your attorney file a statement of issues under AS 44.62. 370.

Very truly yours,

Sharon Andrew
Director

Leilani Kingsbury

(Mrs.) Leilani Kingsbury
Licensing Examiner

ALASKA
INTERNATIONAL
CONSTRUCTION, INC.
P.O. Box 60029
Fairbanks, Alaska 99701
(907) 452-7171
Telex: 090-35454

May 23, 1975

Department of Commerce
State Board of Registration for Architects,
Engineers and Land Surveyors
Pouch D
Juneau, Alaska 99811

Gentlemen:

I have received your letter of May 16, 1975. Please consider this letter as a request to the Board for reconsideration of its decision rejecting my application for admittance.

It is my understanding after numerous phone calls to the licensing examiners office in Juneau, that many letters from professional engineers confirming my responsible charge of work experience were either lost or not timely received. If the Board had these letters, I am certain my application would have been accepted.

To assist me to prepare for my personal appearance before the Board on this request for reconsideration please send me the following information:

1. A copy of the procedure I must follow on reconsideration.

2. Names and addresses of all members of the Board.

3. An explanation of the method the Board utilizes in reaching concurrence on the acceptability of experience.

4. The Board's reasons for not accepting certain categories of my experience.

5. A copy of the Board's minutes of the meeting and, if available, a transcript of the proceedings of the Board when my application was considered and rejected.

I am requesting that the Board hold my application and test results for further review pending reconsideration. Please confirm the Board will comply with these requests.

Respectfully yours,

William D. Bradshaw

William D. Bradshaw
Construction Management Engineer

ALASKA
INTERNATIONAL
CONSTRUCTION, INC.
P.O. Box 1410
Fairbanks, Alaska 99707
(907) 452-1271 or 456-6846
Telex: 090-35435

June 20, 1975

Department of Commerce
State Board of Registration for Architects,
Engineers and Land Surveyors
Pouch D
Juneau, Alaska 99811

Gentlemen:

I am requesting an appointment to appear before the Board at its next meeting to answer any questions the Board may have about the acceptability of my application for professional registration as a Civil Engineer.

Through inquiries at your office in Juneau, I have determined that my experience under Engagements Nos. 1, 3, and 4 has been rejected as submitted. This experience may have been rejected because the description as submitted in the application was too brief.

In an effort to correct this situation, I am enclosing expanded summaries of my experience.

Respectfully yours,

William D. Bradshaw

William D. Bradshaw
Construction Management Engineer

WDB:jw

enclosure

ENGAGEMENT NO. 1

Employer: Burgess Construction Company Title: Construction Bid Estimator

The applicant is claiming ten (10) months of responsible charge of work for Engagement No. 1. The applicant performed the following functions during this engagement:

I. Engineering Design

A. Access Roads
B. Temporary Bridges
C. Design of highway grades when required by contract documents.

II. Engineering Evaluations

A. Reviews plans to determine the adequacy and completeness of the engineering design and compatibility with field conditions.

B. Reviews contract specifications to determine compatibility with plans and field conditions to be encountered.

C. Reviews material reports to determine anticipated settlement, usability of excavation for embankment, aggregate for base courses, concrete, or asphalt mixes.

D. Evaluates item quantities for accuracy.

E. Investigates the projects in the field to determine if plans and specifications fit field conditions. Field conditions ranged from the arctic conditions at Prudhoe Bay to the temperate regions of Southeastern Alaska.

III. Engineering Consultations

A. Assist project personnel in the interpretation of plans and specifications to evaluate the design engineer's intent.

IV. Engineering Management

A. Develop methods of construction.
B. Estimate equipment and manpower requirements.
C. Calculate manpower and equipment production rates.
D. Prepare estimates of project manpower and equipment costs.
E. Calculate labor and equipment hourly rates.
F. Locate and evaluate necessary subcontractors and materials.
G. Prepare project progress schedules.
H. Prepare project budgets.

All of the described functions were accomplished under the applicant's direct control and personal supervision.

The applicant believes the following underlined portions of definitions from the "Law and Regulations" apply to Engagement No. 1:

ARTICLE 4. General Provisions, Sec. 08.48.341., Definitions

(8) "Practice of engineering" means professional or creative work, the adequate performance of which requires the application of specialized knowledge of mathematics and sciences, dealing with the functional and economic design of buildings, structures, machines, equipment, utilities systems, materials, processes, works or projects, public or private; the teaching of advanced engineering courses in institutions of higher learning, the direction of or the performance of engineering surveys, consultation, investigation, evaluation, planning, design, and professional observation of construction of public and private structures, buildings works or projects and engineering review of plans and specifications by regulatory agencies; it may by regulation of the board include architectural design of relatively minor importance to the project as a whole, but it does not include comprehensive architectural services;

(13) "responsible charge" means the direct control and personal supervision of work.

ARTICLE 3. General Provisions, Sec. 250. Definitions, 12AAC 36.250

(4) "Civil engineering" means that branch of professional engineering which embraces studies and activities in connection with fixed works for irrigation, drainage, waterpower, water supply, flood control, inland waterways, harbor, municipal improvements, railroads, highways, tunnels, airports and airways, purification of water, sewage, refuse disposal, foundations, framed and homogeneous structures, buildings or bridges;

(5) "design" means the original and unique application of basis aesthetic, mathematical and physical, and chemical principles to provide an acceptable solution of a problem or project.

(19) "responsible charge of work in the field" means the direction of work the successful accomplishment of which rested upon the applicant, where the applicant has to decide questions of methods of execution and suitability of materials without relying upon advice or instructions from his superiors and where the applicant has to supply solutions to deficiencies in plans or has to correct errors in designs withour first referring them to higher authority for approval, except where approval is a matter of form;

(20) "responsible charge of work in the office" means undertaking investigations or carrying our assignments, which demand resourcefulness and originality, or making plans, writing specifications, and directing drafting and computations for the design of architectural, engineering or land surveying work with only rough sketches, general information and field measurements for reference.

ENGAGEMENT NO. 3

Employer: North Star Borough **Title:** Civil Engineer

The applicant is claiming two (2) months of responsible charge of work for Engagement No. 3. The applicant performed the following functions during this engagement:

I. Engineering Inspection

A. Approximately ten percent of the engagement involved the inspection of the Main Junior High renovation and preparation of pay estimates.

II. Engineering Drafting

A. Approximately twenty percent of the engagement involved the preparation of as-builts to commence a structural study of the "Big Dipper Recreational Center".

III. Engineering Design

A. Designed sewer and water lines from mains to buildings.

B. Designed hot water system for "Big Dipper Recreational Center".

All of the described functions were accomplished under the applicant's direct control and supervision.

The applicant believes the following underlined portions of definitions from the "Law and Regulations" apply to Engagement No. 3:

ARTICLE 4. General Provisions, Sec. 08.48.341., Definitions

(8) "Practice of engineering" means professional or creative work, the adequate performance of which requires the application of specialized knowledge of mathematics and sciences, dealing with the functional and economic design of buildings, structures, machines, equipment, utilities systems, materials, processes, works, or projects, public or private; the teaching of advanced engineering courses in institutions of higher learning, the direction of or the performance of engineering surveys, consultation, investigation, evaluation, planning, design, and professional observation of construction of public and private structures, buildings, works or projects and engineering review of plans and specifications by regulatory agencies; it may be regulation of the board include architectural design of relatively minor importance to the project as a whole, but it does not include comprehensive architectural services;

(13) "responsible charge" means the direct control and personal supervision of work.

ARTICLE 3. General Provisions, Sec. 250. Definitions, 12AAC 36.250

(4) "Civil engineering" means that branch of professional engineering which embraces studies and activities in connection with fixed works for irrigation, drainage, waterpower, water supply, flood control, inland waterways, harbor, municipal improvements, railroads, highways, tunnels, airports and airways, purification of water, sewage, refuse disposal, foundations, framed and homogeneous structures, buildings or bridges;

(5) "design" means the original and unique application of basis aesthetic, mathematical and physical, and chemical principles to provide an acceptable solution of a problem or project.

(19) "responsible charge of work in the field" means the direction of work the successful accomplishment of which rested upon the applicant, where the applicant has to decide questions of methods of execution and suitability of materials without relying upon advice or instructions from his superiors and where the applicant has to supply solutions to deficiencies in plans or has to correct errors in designs withour first referring them to higher authority for approval, except where approval is a matter of form;

(20) "responsible charge of work in the office" means undertaking investigations or carrying out assignments, which demand resourcefulness and originality, or making plans, writing specifications, and directing drafting and computations for the design of architectural, engineering or land surveying work with only rough sketches, general information and field measurements for reference.

ENGAGEMENT NO. 4

Employer: Alaska Department of Highways

Title: Location Project Engineer, HEA II, Grade 16

The applicant is claiming six (6) months of responsible charge of work for Engagement No. 4. The applicant performed the following functions during this engagement:

I. Engineering Design

A. In charge of acquiring design information and designing a small storm drainage system for Kake, Alaska.

B. Designed profile grade for Fish Creek Road Project at Juneau, Alaska.

II. Engineering Field Work

A. In charge of a survey crew involved in engineering surveys.

B. Study area drainage and make recommendations to design group.

C. Contact local officials about problem areas on the project site.

D. Determine what information should be recorded to assist the design group.

E. Determine the best possible alignment from observation of soils conditions, drainage characteristics, grade conditions, and availablility of borrow sources.

F. Field work was conducted in the Southeastern area of Alaska and involved engineering problems associated with this climatic zone.

III. Engineering Experience Required

A. Survey Experience

B. Design Experience

C. Construction Experience

D. Academic background in Civil Engineering

All the described functions were accomplished under the applicant's direct control and supervision.

The applicant believes the following underlined portions of definitions from the "Law and Regulations" apply to Engagement No. 4:

ARTICLE 4. General Provisions, Sec. 08.48.341., Definitions

(8) "Practice of engineering" means professional or creative work, the adequate performance of which requires the application of specialized knowledge of mathematics and sciences, dealing with the functional and economic design of buildings, structures, machines, equipment, utilities systems, materials, processes, works or projects, public or private; the teaching of advanced engineering courses in institutions of higher learning, the direction of or the performance of engineering surveys, consultation, investigation, evaluation, planning, design, and professional observation of construction of public and private structures, buildings, works or projects and engineering review of plans and specifications by regulatory agencies; it may by regulation of the board include architectural design of relatively minor importance to the project as a whole, but it does not include comprehensive architectural services;

(13) "responsible charge" means the direct control and personal supervision of work.

ARTICLE 3. General Provisions, Sec. 250. Definitions, 12AAC 36.250

(4) "Civil engineering" means that branch of professional engineering which embraces studies and activities in connection with fixed works for irrigation, drainage, waterpower, water supply, flood control, inland waterways, harbor, municipal improvements, railroads, highways, tunnels, airports and airways, purification of water, sewage, refuse disposal, foundations, framed and homogeneous structures, buildings or bridges;

(5) "design" means the original and unique application of basis aesthetic, mathematical and physical, and chemical principles to provide an acceptable solution of a problem or project.

(19) "responsible charge of work in the field" means the direction of work the successful accomplishment of which rested upon the applicant, where the applicant has to decide questions of methods of execution and suitability of materials without relying upon advice or instructions from his superiors and where the applicant has to supply solutions to deficiencies in plans or has to correct errors in designs withour first referring them to higher authority for approval, except where approval is a matter of form;

(20) "responsible charge of work in the office" means undertaking investigations or carrying out assignments, which demand resourcefulness and originality, or making plans, writing specifications, and directing drafting and computations for the design of architectural, engineering or land surveying work with only rough sketches, general information and field measurements for reference.

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF COMMERCE

DIVISION OF OCCUPATIONAL LICENSING / POUCH D — JUNEAU 99801

BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS AND LAND SURVEYORS

July 30, 1975

Mr. William D. Bradshaw
ALASKA INTERNATIONAL CONSTRUCTION, INC.
P.O. Box 1410
Fairbanks, AK 99707

Dear Mr. Bradshaw:

At a recent Board Meeting your application was submitted and again reviewed by the Board, attached was your letter of June 20 which elaborated your experience. Upon reviewing your application it was determined and concurred by the Board that you would not be required to re-take the Professional Engineering Exam, if you are successful with the April attempt. It was also concurred that you need six months more experience as of July 25, 1975..

Please provide this experience in writing to this Board upon completing the required amount of months indicated.

Very truly yours,

Sharon Andrew
Director

Sandi Gammons

Sandi Gammons
Licensing Examiner

STATE OF ALASKA
Department of Commerce
Pouch D
Juneau, Alaska 99811

STATE BOARD OF REGISTRATION FOR PROFESSIONAL ARCHITECTS, ENGINEERS AND LAND SURVEYORS

August 6, 1975

Mr. William D. Bradshaw

The Board has finished its review of the recent examination and results of its review and determination are indicated below by the check marks opposite the appropriate statement.

A. You have:	GRADE
_____ the Fundamentals of Engineering	____
Passed the Professional Engineering examination in Civil Engineering	98%
_____ the Fundamentals of Land Surveying	____
_____ the Principles and Practice of Land Surveying, AM portion	____
_____ the Alaska portion	____

B. XXX Upon completion of a satisfactory treatise on "Construction Under Sub-Arctic Conditions" or CE 603 or an equivalent course for credit you will qualify under heading D. Please note that you also are required to submit in writing upon completion of 6 more months of experience as of July 25, 1975.

C. ___ Should you wish to retake the examination the next time it is given, it will be necessary to submit a letter requesting to retake the exam along with the exam fee of $40.00 by September 15 for the November exam or February 15 for the April exam. Land Surveyor examinees need only to retake those sections previously failed. After 18 months has lapsed since the date of the exam previously failed, a new application must be submitted (12 AAC 36.040).

D. ___ On the basis of your passing the examination and fulfilling all other requirements the Board will grant you registration as a _____. Please submit the licensing fee of $40.00 ($10.00 for your permanent certificate and $30.00 for your biennial dues). A form indicating the design of the stamp which is approved for use in Alaska is enclosed. You will receive your registration number and date of registration after receipt of the $40.00.

NOTE: All exams are destroyed if not questioned by the examinee within three months from the above date.

Very truly yours,

Sharon Andrew
Director

Sandi Gammons
Sandi Gammons
Licensing Examiner

Enclosure

ALASKA
INTERNATIONAL
CONSTRUCTION, INC.

P.O. Box 1410
Fairbanks, Alaska 99707
(907) 452-1271 or 456-6846
Telex: 090-35435

August 8, 1975

Department of Commerce
State Board of Registration for Architects,
Engineers and Land Surveyors
Pouch D
Juneau, Alaska 99811

Gentlemen:

I am complying with your letter of July 30, 1975 requesting six months of additional experience be submitted in writing for your review. I have outlined six months of additional experience in responsible charge on the attached page.

I have received your letter of August 6, 1975 informing me that I have successfully passed the Professional Engineering examination in Civil Engineering. The letter implies that I am required to complete a study on arctic engineering. I completed the required course, CE 603, during 1971 - 1972 school year and received the letter grade of "A". This course is listed on the official transcript from the University of Alaska submitted with my application.

Please notify me if any additional information will be required to successfully complete my application for registration.

Respectfully yours,

William D. Bradshaw

Willaim D. Bradshaw
Construction Management Engineer

WDB/ta

enclosure

Name and Address of Supervisor: Mr. [redacted]mas Hendrix, P.E.
Vice President
Alaska International Construction, Inc.
P.O. Box 1410
Fairbanks, Alaska 99707

Date of Employment: 2/75 - 8/75

Employer: Alaska International Construction, Inc.

Title: Construction Management Engineer

The applicant is claiming six (6) months of responsible charge of work for the outlined engagement. The applicant performed the following functions during this engagement:

I. Engineering Design

A. Access Roads
B. Temporary Bridges
C. Design of highway grades when required by contract documents.

II. Engineering Evaluations

A. Reviews plans to determine the adequacy and completeness of the engineering design and compatibility with field conditions.

B. Reviews contract specifications to determine compatibility with plans and field conditions to be encountered.

C. Reviews material reports to determine anticipated settlement, usability of excavation for embankment, aggregate for base courses, concrete, or asphalt mixes.

D. Evaluates item quantities for accuracy.

E. Investigates the project in the field to determine if plans and specifications fit field conditions. Field conditions ranged from the arctic conditions at Prudhoe Bay to the temperate regions of Southeastern Alaska.

III. Engineering Consultations

A. Assist project personnel in the interpretation of plans and specifications to evaluate the design engineer's intent.

IV. Engineering Management

A. Develop methods of construction.
B. Estimate equipment and manpower requirements.
C. Calculate manpower and equipment production rates.
D. Prepare estimates of project manpower and equipment costs.
E. Calculate labor and equipment hourly rates.
F. Locate and evaluate necessary subcontractors and materials.
G. Prepare project progress schedules.
H. Prepare project budgets.

All of the described functions were accomplished under the applicant's direct control and personal supervision.

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF COMMERCE

DIVISION OF OCCUPATIONAL LICENSING / POUCH D – JUNEAU 99801

BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS AND LAND SURVEYORS

August 15, 1975

Mr. William D. Bradshaw
ALASKA INTERNATIONAL CONSTRUCTION, INC.
P.O. Box 1410
Fairbanks, AK 99707

Dear Mr. Bradshaw:

To bring the status of your application up to this date all that you are lacking to fulfill the requirements for registration is the extra 6 months experience. Passing of the Course CE 603 has been verified.

Your updated experience record will be submitted to the next Board meeting scheduled for September 18-19 in Fairbanks. You can expect to be contacted by mail as to the Board's concurrence in review of your application.

Very truly yours,

Sharon Andrew
Director

Sandi Gammons
Licensing Examiner

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING / POUCH D — JUNEAU 99801

BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS AND LAND SURVEYORS

September 23, 1975

Mr. William D. Bradshaw
ALASKA INTERNATIONAL CONSTRUCTION, INC.
P.O. Box 1410
Fairbanks, Alaska 99707

Dear Mr. Bradshaw:

I am in receipt of your letter of the 8th of August. If you would please refer to my attached letter of the 30th of July you will note that the Board concurred that you need an additional six months experience from the date of the Board meeting which was July 25. Please update your experience at that designated time in order for your file to be reviewed by the Board.

Very truly yours,

Sharon Andrew
Director

Sandi Gammons

Sandi Gammons
Licensing Examiner

BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS AND LAND SURVEYORS

July 30, 1975

Mr. William D. Bradshaw
ALASKA INTERNATIONAL CONSTRUCTION, INC.
P.O. Box 1410
Fairbanks, AK 99707

Dear Mr. Bradshaw:

At a recent Board Meeting your application was submitted and again reviewed by the Board, attached was your letter of June 20 which elaborated your experience. Upon reviewing your application it was determined and concurred by the Board that you would not be required to re-take the Professional Engineering Exam, if you are successful with the April attempt. It was also concurred that you need six months more experience as of July 25, 1975..

Please provide this experience in writing to this Board upon completing the required amount of months indicated.

Very truly yours,

Sharon Andrew
Director

Sandi Gammons
Licensing Examiner

RICE, HOPPNER & HEDLAND
ATTORNEYS AND COUNSELORS AT LAW
SUITE A - TEAMSTERS BUILDING
P. O. BOX 2551
FAIRBANKS, ALASKA 99707
(907) 452-1201

JULIAN C. RICE
LLOYD I. HOPPNER
JOHN S. HEDLAND
GEORGE E. SMALL
MILLARD F. INGRAHAM
H. JOHN DENAULT III
HUGH W. FLEISCHER
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SAUL R. FRIEDMAN
PATRICK T. BROWN
DAVID A. ENGELS

CHARLES J. CLASBY
OF COUNSEL

ANCHORAGE OFFICE
1018 WEST 6TH AVENUE (99501)
(907) 279-5528

BETHEL OFFICE
P. O. BOX 555 (99559)
(907) 543-2850

VALDEZ OFFICE
P. O. BOX 466 (99686)
(907) 835-4365

October 21, 1975

State of Alaska
Department of Commerce & Economic Development
Division of Occupational Licensing
Pouch D
Juneau, AK 99801

ATTN: Board of Registration for Architects, Engineers and Land Surveyors - Sandi Gammons, Licensing Examiner

Dear Ms. Gammons:

I represent William Douglas Bradshaw. He has asked me to do whatever is necessary to clarify the status of his application. I have reviewed his file, including correspondence he has received from you and am unable to understand the reasons for the Board's refusal to certify him at this time. In your correspondence, and specifically, your letter of September 23, 1975, you advised that the only additional requirement that needs to be fulfilled by Mr. Bradshaw before he receives his license is "an additional six months experience from the date of the Board Meeting, which was July 25".

Does this mean that he needs six months additional experience from July 25, 1975, which would run him until January 25, 1976, before he would be eligible for the issuance of a license?

Also, in reviewing Mr. Bradshaw's application, it appears to me that he already has sufficient and adequate experience under the regulations promulgated by the Board of Registration for Architects, Engineers and Land Surveyors. Since the Board is apparently asking that he ob-

COPY

tain additional experience, this obviously means that they have rejected and refused to accept some of the experience already submitted by Mr. Bradshaw. Would you please advise me, specifically, of what experience of Mr. Bradshaw's has been rejected by the State Board of Registration for Architects, Engineers and Land Surveyors, and the reasons or grounds for said rejection.

Would you please respond to this inquiry as soon as possible.

Very truly yours,

RICE, HOPPNER & HEDLAND

Lloyd I. Hoppner

LIH/cmb

cc: William D. Bradshaw
Post Office Box 81712
College, AK 99701

STATE OF ALASKA
JAY S. HAMMOND, Governor
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING / POUCH D – JUNEAU 99801

BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS AND LAND SURVEYORS

November 5, 1975

Mr. William D. Bradshaw
ALASKA INTERNATIONAL CONSTRUCTION, INC.
P.O. Box 1410
Fairbanks, Alaska 99707

Dear Mr Bradshaw:

Recent correspondence between the Director of Occupational Licensing and your attorney has caused the Board to review your file for the third time this year.

The Board feels that it is being quite generous in it's judgement of the additional six months of experience which it is requiring of you. Board Policy on experience states "Project Engineer" with a contractor, in the commonly accepted connotation, may receive up to 1/2 credit for the time spent in such work." Only 17 months of your experience in responsible charge might not be in this category, when a minimum of 24 months is required.

Please send us an up-date of your work experience in January of 1976 for our further review.

Sincerely,

Douglas Ackley
President

Sandi Gammons
Licensing Examiner

cc: Mr. Lloyd I. Hoppner

RICE, HOPPNER & HEDLAND
ATTORNEYS AND COUNSELORS AT LAW
SUITE A-TEAMSTERS BUILDING
P. O. BOX 2551
FAIRBANKS, ALASKA 99707
(907) 452-1201

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PATRICK T. BROWN
DAVID A. ENGELS
CHARLES J. CLASBY
OF COUNSEL

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(907) 279-5528

BETHEL OFFICE
P. O. BOX 555 (99559)
(907) 543-2850

VALDEZ OFFICE
P. O. BOX 466 (99686)
(907) 835-4365

November 20, 1975

Miss Sandi Gammons
Licensing Examiner
State of Alaska
Department of Commerce & Economic Development
Pouch D
Juneau, Alaska 99801

Re: William D. Bradshaw

Dear Miss Gammons:

I have received a copy of the letter which you sent to Mr. Bradshaw in response to my letter inquiring as to the reasons for the rejection of Mr. Bradshaw's experience. In your letter of November 5, you state that, "The Board feels that it is being quite generous in it's judgement . . . . ". However, that does not answer the questions raised in my letter. I wish to know what experience that was tendered by Mr. Bradshaw was rejected by the Board and what the reasons were for its rejection. I can tell nothing from your letter of November 5, 1975. I believe that I, as the attorney for Mr. Bradshaw, and Mr. Bradshaw himself have a right to know specifically what experience of his was rejected and the reasons for its rejection. I don't believe that the law is satisfied simply by stating the conclusion that the Board felt it was being "generous".

Therefore, would you please advise me, specifically, what experience of Mr. Bradshaw's was rejected by the Board and the reasons for the rejection.

Very truly yours,

RICE, HOPPNER & HEDLAND

By: _____
Lloyd I. Hoppner

LIH:ad

cc: Mr. William D. Bradshaw
Alaska International Construction, Inc.
P.O. Box 1410
Fairbanks, Alaska 99707

STATE OF ALASKA

RECEIVED

JAY S. HAMMOND, GOVERNOR

A. I. C.

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING / POUCH D — JUNEAU 99811

December 8, 1975

Rice, Hoppner & Hedland
Suite-A Teamsters Building
P. O. Box 2551
Fairbanks, Alaska 99707

Re: William D. Bradshaw

Dear Mr. Hoppner:

I am in complete agreement with your letter of November 20, 1975, to Mrs. Sandi Gammons of my staff. It is unfortunate that the letter of November 5, 1975, was mailed as its meaning is certainly not clear and its tone is irritating. Please accept my apologies.

It is my understanding that the Board has not rejected Mr. Bradshaw's experience, or portions of it; but that in following established procedure for evaluating professional experience, has allowed only one half credit for Mr. Bradshaw's experience as a project engineer with a contractor. This policy is not a portion of the regulations adopted by the Board, but is part of the guidelines which the Board established for its use in evaluating "professional experience." I hope this information clarifies the situation for you.

Mr. Douglas Ackley, President of the Board of Architects, Engineers and Land Surveyors, has indicated to us that we may have informed you incorrectly when we advised that your client would be eligible for registration in January 1976. If Mr. Bradshaw is still acting as a project engineer with a construction contractor, his current experience may again be eligible for only one half credit toward meeting the "professional experience" requirement.

If we may be of further assistance in resolving this matter, do not hesitate to contact the undersigned.

Very truly yours,

Sharon Andrew

Sharon Andrew
Director

cc: William D. Bradshaw
Board of Architects,
Engineers and Land Surveyors

RICE, HOPPNER & HEDLAND
ATTORNEYS AND COUNSELORS AT LAW
SUITE A-TEAMSTERS BUILDING
P. O. BOX 2551
FAIRBANKS, ALASKA 99707
(907) 452-1201

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JOHN S. HEDLAND
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H. JOHN DENAULT III
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PATRICK T. BROWN
DAVID A. ENGELS

CHARLES J. CLASBY
OF COUNSEL

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BETHEL OFFICE
P. O. BOX 535 (99559)
(907) 543-2850

WALDEZ OFFICE
P. O. BOX 466 (99686)
(907) 835-4345

December 8, 1975

Miss Sandi Gammons
Licensing Examiner
State of Alaska
Department of Commerce & Economic Development
Pouch D
Juneau, AK 99801

Re: William D. Bradshaw

Dear Miss Gammons:

Enclosed is my letter of November 20, 1975. Would you please furnish me with the information I have requested.

Very truly yours,

RICE, HOPPNER & HEDLAND

Lloyd I. Hoppner

LIH/cmb

cc: Willaim D. Bradshaw

RICE, HOPPNER & HEDLAND
ATTORNEYS AND COUNSELORS AT LAW
SUITE A-TEAMSTERS BUILDING
P. O. BOX 2551
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BETHEL OFFICE
P. O. BOX 505 (99559)
(907) 543-2850

VALDEZ OFFICE
P. O. BOX 468 (99686)
(907) 835-4385

January 7, 1975

Miss Sandi Gammons
Licensing Examiner
State of Alaska
Department of Commerce & Economic Development
Pouch D
Juneau, AK 99801

Re: William D. Bradshaw

Dear Miss Gammons:

Enclosed are copies of my letters of December 8, 1975 and November 20, 1975. I do not understand why you refuse to respond to these requests for information. Therefore, if I have not received the information requested by the close of business on Friday, January 16, 1976, I will take other steps, to the extent necessary, to obtain this information. This is information that Mr. Bradshaw is entitled to, and again, I fail to understand why you fail to provide it.

Very truly yours,

RICE, HOPPNER & HEDLAND

Lloyd I. Hoppner

LIH/cmb

cc: William D. Bradshaw

Certified Mail No. 238827
Return Receipt Requested

COPY

ALASKA
INTERNATIONAL
CONSTRUCTION, INC.
P.O. Box 1410
Fairbanks, Alaska 99707
(907) 452-1271 or 456-6846
Telex: 090-35435

January 9, 1976

Department of Commerce
State Board of Registration for Architects,
Engineers and Land Surveryors
Pouch D
Juneau, Alaska 99811

Gentlemen:

I am submitting five months of additional experience in responsible charge of work to be included with my application for registration as a Professional Engineer in Civil Engineering. I have outlined the five months of additional experience on the attached page. With this submittal my application should show 68 months in professional work and 39 months in responsible charge of work for a total of 107 months of experience having been submitted to the Board for its review.

I have noticed in some of your correspondence that I am being evaluated as a "Project Engineer." I have never been employed by Alaska International Construction, Inc. or Burgess Construction Company as a "Project Engineer." During my employment with these companys, they have employed on the average three engineers who were classified as "Project Engineers." I do deal with these individuals as a consultant and in some cases at a supervisory level.

Respectfully yours,

William D. Bradshaw

William D. Bradshaw
Construction Management Engineer

WDB:ta

cc: Lloyd I. Hoppner

Name and Address of Supervisor: Mr. Thomas Hendrix, P.E.
Vice President
Alaska International Construction, Inc.
P.O. Box 1410
Fairbanks, Alaska 99707

Date of Employment: 8/75-1/76

Employer: Alaska International Construction, Inc.

Title: Construction Management Engineer

The applicant is claiming five (5) months of responsible charge of work for the outlined engagement The applicant performed the following functions during this engagement:

I. Engineering Design

A. Access Roads
B. Temporary Bridges
C. Design of highway grades when required by contract documents.

II. Engineering Evaluation

A. Reviews plans to determine the adequacy and completeness of the engineering design and compatibility with field conditions.

B. Reviews contract specifications to determine compatibility with plans and field conditions to be encountered.

C. Reviews material reports to determine anticipated settlement, usability of excavation for embankment, aggregate for base courses, concrete, or asphalt mixes.

D. Evaluates item quantities for accuracy.

E. Investigates the project in the field to determine if plans and specifications fit field conditions. Field conditions ranged from the arctic conditions at Prudhoe Bay to the temperate regions of Southeastern Alaska.

III. Engineering Consultations

A. Assist project personnel in the interpretation of plans and specifications to evaluate the design engineer's intent.

IV. Engineering Management

A. Develop methods of construction.
B. Estimate equipment and manpower requirements.
C. Calculate manpower and equipment production rates.
D. Prepare estimates of project manpower and equipment costs.
E. Calculate labor and equipment hourly rates.
F. Locate and evaluate necessary subcontractors and materials.
G. Prepare project progress schedules.
H. Prepare project budgets.

All of the described functions were accomplished under the applicant's direct control and personal supervision.

RICE, HOPPNER & HEDLAND
ATTORNEYS AND COUNSELORS AT LAW
SUITE A-330 WENDELL STREET
P.O. BOX 2551
FAIRBANKS, ALASKA 99707
(907) 452-1201

JULIAN C. RICE
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VALDEZ OFFICE
P.O. BOX 466 (99686)
(907) 835-4365

January 22, 1976

Sharon Andrew, Director
State of Alaska
Department of Commerce & Economic Development
Pouch D
Juneau, AK 99811

COPY

Re: William D. Bradshaw

Dear Ms. Andrew:

I have received your letter of January 13, 1976 and a copy of the letter that was sent to me on December 8, 1975, but never received. I have reviewed your letter of December 8, 1975 and while I appreciate the candid manner in which you advised me of the Board's procedure, I am appalled by the secret way in which the Board considers applications. The statutes specifically provide that the Board is to be governed by the Administrative Procedures Act, which requires publication, notice and hearing of any and all regulations that the Board wishes to operate under. Now however, I am told that the Board has a "secret" regulation which has never been published and which the citizens of the State have never had a opportunity to comment on before its adoption. Although the Board may very well wish to operate under its "secret" regulations and "pull-up-the-ladder" on the new engineer applicants, nevertheless, the Board is bound to operate in conformity with the published and accepted regulations which are found in 12 AAC 36.010, et seq. These regulations were adopted pursuant to authority granted by statute in AS §08.48.011. Neither the statutes nor the published regulations contain anything close to the "secret" regulations you quoted to me in your letter of December 8, 1975. There is no question but that the experience that has been provided by Mr. Bradshaw meets the requirements of the statutes and of the published regulations, therefore,

it meets the requirements of law. It may not meet the requirements of the whims of the members of the Board, but it does meet the requirement of law.

Therefore, you are hereby requested to immediately issue the certification to Mr. Bradshaw. If the certification is not issued, I shall file a complaint in Superior Court on his behalf compelling you to issue the certification as required by law.

Very truly yours,

RICE, HOPPNER & HEDLAND

Lloyd I. Hoppner

LIH/cmb

William Douglas Bradshaw

Home Address: Box 81712
College, Alaska 99701

Home Phone: 479-6998

Business Address: Alaska International Construction, Inc.
P.O. Box 1410
Fairbanks, Alaska 99701

Business Phone: 452-1271

Summary of Correspondence

Letter Date	Summary and Comments
February 13, 1975	Pages 1 and 6 of the application for registration, and a letter of reference from Mr. John L. Burdick, P.E. were submitted to the Board. The application was submitted in two parts since I did not become aware that the application form had been changed from the previous years form until two days before it was to be submitted. I received permission by telephone from Mrs. Kingsbury, Licensing Examiner, to submit the application in two parts and I also requested that she send me a copy of the "Law and Regulations" so I could define the various categories of experience to be described in the application. By sending her part of my application and the required fee she could order my test.
February 25, 1975	The Summary Sheet of Section 8, Experience Record Summary, and a letter of reference from Mr. William B. McMullen, P.E. were submitted to the Board. I also commented on an apparent discrepancy between the categories of experience listed in the "Law and Regulations" and on the application form. The letter was incomplete in that I referred to four categories of experience and listed three, inadvertently forgetting to list "responsible charge of work in the office". On the Experience Record Summary four categories of experience are listed; "In Design", "Responsible Charge", "Prof.", and "Sub of Prof." I finally defined these as responsible charge of work in the office, professional work, and sub-professional work. This appeared to be in conflict with the Summary Sheet of Section 8 where five columns are defined: (1) In Design, (2) In Responsible Charge, (3) Total Professional time, (4) Sub-Professional work, and (5) Total Time. Column 3 is defined as the summation of columns 1 and 2. Thus if appeared they did not have a column for summarizing professional work. I later learned that "In Design" was suppose to designate professional work. This is an unfortunate choice of words since this heading implys that only time spent in design should be listed here which is only one phase of the many different categories of engineering work. I did not receive the requested reply to my letter.
March 24, 1975	Form letter informing me of when and where I was to take the Professional Engineering Examination.

May 16, 1975

Letter from the Board informing me that I required an additional 18 months of experience and that my estimating and inspection work would not qualify as professional work in responsible charge. The letter did not explain why the estimating and inspection work would not qualify even though it was accomplished under my direct control and under the supervision of registered professional engineers. Paragraph four immediately bothered me since emphasis was placed on my including the names and addresses of my immediate supervisors as if the Board had been unable to verify my experience. I then placed several phone calls to Juneau, I believe on the 19th and 20th of May, to check on my application. Mrs. Kingsbury was on vacation and thus not available to answer my questions. Her replacement checked my file and could find one letter of verification, out of the five requested, which was from Mr. James Nelson, P.E.. Verification from Mr. Bergdoll, Mr. Pierce, Mr. Palmer, and Mr. Hendrix could not be located. She then informed me that I should wait and contact Mrs. Kingsbury when she returned from vacation. I contacted Mrs. Kingsbury by telephone on approximately May 21, 1975 and asked her about my application. She informed me that all the letters of verification, except the one from Mr. Bergdoll which had not been received, were with my application when it was reviewed by the Board. She also informed me that sometimes the difficulty with having experience accepted by the Board is that the description submitted by the applicant is to brief. I also requested information on how I could appeal the Board's decision.

As a comment, on a later business trip to Juneau, I went to see Mrs. Kingsbury somewhere around the first part of June. While she would not let me look through my file, she did try to answer my questions and showed me that certain information was in the file. I found it interesting that the letters of verification were together and have a very distinct format. I can not prove that they were added after the fact, but I consider it suspicious that the girl that replaced Mrs. Kingsbury while she was on vacation was able to locate one of the letters but not the rest. I made a request that Mrs. Kingsbury send a new verification of experience form to Mr. Bergdoll. Later that day I talked to Mr. Bergdoll and he informed me that he had sent in the letter of verification a couple of months earlier.

May 22, 1975

Letter from the Board informing me how I could appeal the Board's dicision regarding my application.

May 23, 1975

Letter to the Board requesting information. Request number one was answered in the Board's letter of May 22, 1975. The other requested information was never supplied and the letter itself was never answered.

During my meeting with Mrs. Kingsbury, around the first part of June, she informed me that the only experience in responsible charge the Board may have accepted was Engagement No. 2, or my employment with Michael Baker Jr., Inc.. She also felt it would be helpful if I were to submit expanded experience summaries.

June 20, 1975

Submitted expanded summaries of my experience to the Board and requested an appointment with the Board at its next meeting. I never received an answer to my request to appear before the Board.

I believe it was on the 23rd or 24th of July that I went to meet Jim Lake, at that time a member of the Board, about my letter of June 20, 1975. During our conversation he informed me that the Board was meeting on the 25th and 26th of July. He could not tell me why my request for an appointment had not been answered, but that I should contact Mr. Doug Ackley, the President of the Board, the next morning in Anchorage about an appointment. I telephoned Mr. Ackley and he informed me that the Board had reviewed my application and determined that I needed an additional six months experience. I also asked about the examination and was informed that there has been a mistake made in grading the tests that had required they be sent back East to be recorrected. Based on this information, the fact that the Board could not award the certificates of registration until the tests had been revised, and I would have the additional six months experience requested fulfilled in August, I decided that the problems with my application had been successfully resolved and I would not need to travel to Anchorage to appear before the Board.

July 30, 1975

Received a letter from the Board I thought confirmed the above conversation with Mr. Ackley even though I found the phrasiology of the last sentence of the first paragraph, "It was also concurred that you need six months more experience as of July 25, 1975,", to be unusual. Based on my conversation with Mr. Ackley and the fact that the experience submitted with my original application for the Board's review only went through January, 1975,

they had to mean an additional six months in addition to the experience submitted with the original application and that this decision had been made at their meeting on July 25, 1975.

August 6, 1975 — Form letter from the Board informing me that I had passed the Professional Engineering Examination and that I needed to complete an arctic engineering requirement. The letter also contained a note about the six months additional experience required.

August 8, 1975 — Letter to the Board that I had completed the required arctic engineering course and I submitted the additional six months experience requested by the Board.

August 15, 1975 — Letter from the Board acknowledging receipt of my letter of August 8, 1975.

September 23, 1975 — Letter from the Board clarifying that I needed an additional six months of experience as of July 25, 1975 and referring me to their letter of July 30, 1975.

I do not know how the Board arrived at this six months additional requirement since I had not before their meeting in September submitted a summary of my experience covering the period from February to July 1975. In essence, the Board is now saying that I need an additional 11 months over that submitted with my original application. I still do not know what experience is being denied and why it is unacceptable. I am no closer to the truth than when this started May 15, 1975.

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Alaska State Legislature

House

JUNEAU ALASKA

February 26, 1976

MEMORANDUM

TO: Commerce Committee Members

FROM: Rep. Bob Bradley, Chairman
House Commerce Committee

SUBJECT: House Bill 578

Enclosed is additional correspondence received on House Bill No. 578 for your consideration.

LAW OFFICES OF
FAULKNER, BANFIELD, DOOGAN & HOLMES
SUITE 201, 311 FRANKLIN STREET
JUNEAU, ALASKA 99801

TEL. 586-2210
AREA CODE 907

HERBERT L. FAULKNER (1882-1972)
NORMAN C. BANFIELD
FRANK M. DOOGAN
MICHAEL M. HOLMES
RANDALL J. WEDDLE
WILLIAM B. ROZELL

JAN VAN DORT
LAWRENCE T. FEENEY
CHARLES N. DRENNAN
PATRICK E. MURPHY
TOM BATCHELOR

February 23, 1976

The Honorable Bob Bradley
Chairman, House Commerce Committee
State Capitol
Pouch V
Juneau, Alaska 99811

Re: House Bill No. 578

Dear Chairman Bradley:

On behalf of Household Finance Corporation, I have been requested to inform you that the broad language contained in the definition section of this bill would give the Credentialing Review Commission the authority to affect business entities and enterprises which normally would not be licensed or are regulated under other portions of the statutes. AS 08.03.400(3) and (6) should be amended to provide that other business entities are exempted from the provisions of the act.

Very truly yours,

Jan Van Dort

JVD/amz
cc: H. K. Henry
J. M. Murray

Alaska State Legislature

House

JUNEAU ALASKA

February 26, 1976

MEMORANDUM

TO: Bob Bradley

FROM: Jennifer Peterson, Secretary
House Commerce Committee

SUBJECT: Correspondence concerning HB 578

I have reviewed the correspondence from William D. Bradshaw as per your request.

I believe this to be a perfect example of what Sharon Andrews was explaining to the Committee. The Boards need to be reviewed and analyzed as to their procedures and policies.

Mr. Bradshaw was simply trying to find out why the Board refused his license. The Board told him he needed six more months of experience and they he would have to take the test again whether he passed the first one or not. In each of his letters and ones written by his attorney, they requested an explanation of what kind of experience he needed and when would he be eligible for his license. In each reply he received, they simply stated again that he needed "more experience" without an explanation of why.

Sharon Andrews did finally answer the questions, however, the answer was not acceptable. She stated that: "It is my understanding that the Board has not rejected Mr. Bradshaw's experience, or portions of it; but that in following established procedure for evaluating professional experience, has allowed only one half credit for Mr. Bradshaw's experience as a project engineer with a contractor. This policy is not a portion of the regulations adopted by the Board, but is part of the guidelines which the Board established for its use in evaluating 'professional experience'. I hope this information clarifies the situation for you." Mr. Bradshaw's attorney's reply, I believe, is na answer to it all (see attached).

In Mr. Bradshaw's cover letter, he offers three recommendations to be included in the bill based on his experiences.

RICE, HOPPNER & HEDLAND
ATTORNEYS AND COUNSELORS AT LAW
SUITE A-330 WENDELL STREET
P.O. BOX 2551
FAIRBANKS, ALASKA 99707
(907) 452-1201

JULIAN C. RICE
LLOYD I. HOPPNER
JOHN S. HEDLAND
GEORGE E. SMALL
MILLARD F. INGRAHAM

HUGH W. FLEISCHER
CHRISTOPHER R. COOKE
SAUL R. FRIEDMAN
PATRICK T. BROWN
DAVID A. ENGELS

CHARLES J. CLASBY
OF COUNSEL

ANCHORAGE OFFICE
1016 WEST 6TH AVENUE, 99501
(907) 279-5528

BETHEL OFFICE
P.O. BOX 555 (99559)
(907) 543-2850

VALDEZ OFFICE
P.O. BOX 466 (99686)
(907) 835-4388

January 22, 1976

Sharon Andrew, Director
State of Alaska
Department of Commerce & Economic Development
Pouch D
Juneau, AK 99811

COPY

Re: William D. Bradshaw

Dear Ms. Andrew:

I have received your letter of January 13, 1976 and a copy of the letter that was sent to me on December 8, 1975, but never received. I have reviewed your letter of December 8, 1975 and while I appreciate the candid manner in which you advised me of the Board's procedure, I am appalled by the secret way in which the Board considers applications. The statutes specifically provide that the Board is to be governed by the Administrative Procedures Act, which requires publication, notice and hearing of any and all regulations that the Board wishes to operate under. Now however, I am told that the Board has a "secret" regulation which has never been published and which the citizens of the State have never had a opportunity to comment on before its adoption. Although the Board may very well wish to operate under its "secret" regulations and "pull-up-the-ladder" on the new engineer applicants, nevertheless, the Board is bound to operate in conformity with the published and accepted regulations which are found in 12 AAC 36.010, et seq. These regulations were adopted pursuant to authority granted by statute in AS §08.48.011. Neither the statutes nor the published regulations contain anything close to the "secret" regulations you quoted to me in your letter of December 8, 1975. There is no question but that the experience that has been provided by Mr. Bradshaw meets the requirements of the statutes and of the published regulations, therefore,

it meets the requirements of law. It may not meet the requirements of the whims of the members of the Board, but it does meet the requirement of law.

Therefore, you are hereby requested to immediately issue the certification to Mr. Bradshaw. If the certification is not issued, I shall file a complaint in Superior Court on his behalf compelling you to issue the certification as required by law.

Very truly yours,

RICE, HOPPNER & HEDLAND

Lloyd I. Hoppner

LIH/cmb

January 29, 1976

Representative Bob Bradley
Chairman House Commerce Committee
Pouch V
Juneau, Alaska 99811

Subject: HB 578, "An Act Creating the Alaska State Credentialing Review Commission".

Dear Representative Bradley:

I received your notification on 28 January 1976 that the House Commerce Committee will hear testimony on HB 578, "A Act Creating the Alaska State Credentialing Review Commission". I am not presently familiar with HB 578, but will assume it addresses the current laws and regulations applicable to the operation of the State of Alaska occupational licensing boards. Correspondence is presently being exchanged between the State Board of Registration for Architects, Engineers and Land Surveyors and myself regarding their denial of my application for registration as a Professional Engineer in the field of civil engineering.

With this letter I am enclosing a file of correspondence that has been exchanged with the Board from 13 February 1975 through 22 January 1976. Included is a summary of comments pertaining to the correspondence exchanged between 13 February 1975 and 23 September 1975.

One of the major objectives of this correspondence has been to receive an explanation from the State Board of Registration for Architects, Engineers and Land Surveyors explaining the reasoning behind their denial of my license. After considerable effort and expense they have vaguely explained that certain categories of my experience is receiving one-half credit under unpublished policy of the Board. While my lawyer has informed me that a State policy established in this fashion is in violation of State regulations, the correspondence

2.) The occupational licensing boards be required to document each denial of registration based on the State laws and regulations and board policy, and furnish a copy to the applicant.

3.) That an appeals mediation board be established to review disputes, and thus establish an intermediate step between requesting a review by the occupational licensing board that denied the initial application for registration, and the more expensive process of appealing through the court system.

I sincerely hope you will evaluate the enclosed correspondence and form your own impressions about possible revisions to the State law and regulations that may be required.

My personnal feelings are that I have been treated very unfavorably by the State Board of Registration for Architects, Engineers and Land Surveyors. Whenever a government agency feels it does not need to explain its actions to a citizen, the laws and regulations that govern its operations should be revised.

I hope that this letter and enclosed information will be of assistance to the House Commerce Committee in evaluating HB 578 and if I may be of any further assistance, please feel free to contact me.

Respectfully yours,

William D. Bradshaw

William D. Bradshaw

WDB:ta

enclosure

STATE OF ALASKA
DEPARTMENT OF COMMERCE
BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS AND LAND SURVEYORS
POUCH D
JUNEAU, ALASKA 99811
PHONE (907) 465 2540

I HEREBY APPLY FOR REGISTRATION BY EXAMINATION ( ) RECIPROCITY (X) FOR:
PROFESSIONAL ARCHITECT ____ ARCHITECT EQUIVALENCY ____
PROFESSIONAL LAND SURVEYOR ____ FUNDAMENTALS OF ENGINEERING ____
PROFESSIONAL ENGINEER IN THE FIELD OF Civil Engineering

certified check, bank draft or money order accompanies this application. $25.00 if application for registration by reciprocity; $40.00 for taking of the examination. Fees are retained after Board action. Make payable to State of Alaska. NOTE: Separate applications are required if registration is desired in more than one branch.

1. GENERAL INFORMATION

Name in full William Douglas Bradshaw,
Usual written signature William Douglas Bradshaw
RESIDENCE address Box 81712 College, Alaska 99701
BUSINESS address Box 81712 College, Alaska 99701
Firm name Between Positions
Present position Between Positions
Date of birth March 25, 1946 Are you a citizen of the U.S? Yes(X), No ( ) If yes, by birth X , by naturalization ____ . If no, what is your status? ____
Legal resident of what state ? Alaska When did you become a resident ? 1946

Attach photo with face not less than 1" on each side. Affix signature at bottom of photo

2. REFERENCES

Give names and addresses of five references, not relatives, not listed under experience record summary, section 8 , who are responsible architects, engineers or land surveyors. Three of these shall have professional registration and have personal knowledge of your character and professional activities.

Name	Address	Position	Cert No.	State
Mr. George Easley, P.E.	[illegible]	Senior Vice President		Alaska
Mr. John L. Burdick, P.E.	[illegible]	Head, U of A C.E. Dept.		Alaska
Mr. Elbert F. Rice, P.E.	[illegible]	Prof., U of A C.E. Dept.		Alaska
Mr. E. Lawrence Bennett, P.E.	[illegible]	Visiting Professor		Alaska
Mr. William McKullen	[illegible]	Vice President		Alaska

(Letters from these references are secured by the applicant and filed with the application.)

3. PREVIOUS REGISTRATION

INITIAL REGISTRATION Name of state Alaska 1968 Year 1968 Hours of written examination 8
PROFESSIONAL REGISTRATION (List only state of original registration and/or registration by exam)

Type of License	State	Year Registered	Hrs. written examination	Reciprocity	Grandfather Clause	Active or Lapsed

Have you ever had your registration refused or revoked in any state? No If yes, attach your statement giving full particulars.

(Turn this page over)

Applicant William Douglas Bradshaw

AFFIDAVIT FOR REGISTERED PROFESSIONAL ARCHITECTS, ENGINEERS OR LAND SURVEYORS

I hereby certify that I have known the applicant for 12 years, that I have personal knowledge that he has been engaged in the practice of
[ ] land surveying
[✓] engineering
[ ] architecture
for 6 years and that he is of good moral character and reputation.

Name [illegible]
Address Univ. of Alaska
Certificate No. [illegible] State Alaska

Subscribed and sworn to before me this 26th day of January, 19 77
[illegible]
Notary Public in and for the State of
Residing at Fairbanks, Alaska

MY COMMISSION EXPIRES
MARCH 28, 1977

• • •

Applicant William Douglas Bradshaw

AFFIDAVIT FOR REGISTERED PROFESSIONAL ARCHITECTS, ENGINEERS OR LAND SURVEYORS

I hereby certify that I have known the applicant for 12 years, that I have personal knowledge that he has been engaged in the practice of
[ ] land surveying
[X] engineering
[ ] architecture
for 6 years and that he is of good moral character and reputation.

Name [illegible]
Address [illegible]
Certificate No. [illegible] State [illegible]

Subscribed and sworn to before me this 26th day of February, 19 77
[illegible]
Notary Public in and for the State of
Residing at Fairbanks, Alaska

MY COMMISSION EXPIRES
MARCH 28, 1977

• • •

Applicant William Douglas Bradshaw

AFFIDAVIT FOR REGISTERED PROFESSIONAL ARCHITECTS, ENGINEERS OR LAND SURVEYORS

I hereby certify that I have known the applicant for 12 years, that I have personal knowledge that he has been engaged in the practice of
[ ] land surveying
[X] engineering
[ ] architecture
for 6 years and that he is of good moral character and reputation.
4 yrs college

Name [illegible]
Address [illegible]
Certificate No. [illegible] State [illegible]

Subscribed and sworn to before me this 27th day of February, 19 77
[illegible]
Notary Public in and for the State of
Residing at Fairbanks, Alaska

MY COMMISSION EXPIRES
MARCH 28, 1977

ALASKA
INTERNATIONAL
CONSTRUCTION, INC.
P.O. Box 60029
Fairbanks, Alaska 99701
(907) 452-7171
Telex: 090-35454

Lon McDermott
President

February 25, 1975

Department of Commerce
State Board of Registration for Architects,
Engineers and Land Surveyors
Pouch D
Juneau, Alaska 99811

Dear Sir:

Please find enclosed the Summary Sheet of Section 8, Experience Record Summary, and a letter of reference from Mr. William B. McMullen, P.E.

In reading through Register 50, Title 12., Chapter 36., Article 3., 18, 19, 20, and 22; I noticed that four categories of experience are defined; "professional work", "responsible charge of work in the field", and "sub-professional work." The Summary Sheet of Section 8 does not contain a column for time in "professional work" and thus I have listed Engagements 5. and 6. in column 3. This form is also in conflict with the categories listed on the Experience Record Summary. I would appreciate farther clarification from you about this apparent discrepancy and notification about the status of my application as to whether it has been completed correctly.

Please address all future correspondence to the following address:

Mr. William D. Bradshaw
Alaska International Construction, Inc.
Box 60029
Fairbanks, Alaska 99701

Respectfully yours,

William D. Bradshaw

Applicant William Douglas Bradshaw

Engagement No. 1.

EXPERIENCE RECORD SUMMARY
(Additional forms will be supplied upon request)

Date Verified

Name and address of Supervisor (not deceased)	Dates of Employment Give Month and Year	Experience (Years in Months)				
		In Design	Responsible Charge	Prof.	Sub. of Prof.	Total Time
. Thomas Hendrix, P.E. ce President aska International Industries x 60029 Airport Annex irbanks, Alaska 99701	4/74-1/75		10			10

Title of job and Description of work. Be concise. Include magnitude and complexity of work on which you were engaged.

Construction Bid Estimator. Independent preparation of estimates of costs for proposed projects to include; inspection of project location, developing methods of construction, estimating equipment and manpower requirements, calculating manpower and equipment production rates, preparing estimates of project manpower and equipment costs, calculating labor and equipment hourly rates, and locating and evaluating necessary subcontractors and materials. Preparation of project progress schedules; critical path method and bar charts. Preparation of project budgets.

Engagement No. 2.

EXPERIENCE RECORD SUMMARY
(Additional forms will be supplied upon request)

Date Verified

Name and address of Supervisor (not deceased)	Dates of Employment Give Month and Year	Experience (Years in Months)				
		In Design	Responsible Charge	Prof.	Sub. of Prof.	Total Time
. Cecil E. Palmer, P.E. ce President hael Baker Jr., Inc. x 9997 kson, Mississippi 39206	6/73-3/74	1	9			10

Title of job and Description of work. Be concise. Include magnitude and complexity of work on which you were engaged.

Assistant Engineer. Supervise the preparation and dissemination of field information in a usable form for design, responsible for the updating of office alignment sheets for the North slope haul road and the trans-Alaska pipeline, designed a small portion of highway realignment for the Livengood to Yukon River highway, supervised the preparation of navigation permits for the crossings of navigable streams and rivers along trans-Alaska pipeline route, and assisted in preparing studies of the expected hydraulic characteristics of rivers along the trans-Alaska pipeline route after the excavation of river borrow.

(Turn this page over)

Applicant William Douglas Br(haw (

EXPERIENCE RECORD SUMMARY
(Additional forms will be supplied upon request)

Engagement No. 5. Date Verified

Name and address of Supervisor (not deceased)	Dates of Employment Give Month and Year	Experience (Years in Months)				
		In Design	Responsible Charge	Prof.	Sub. of Prof.	Total Time
. Barry L. Bergdoll, P.E. oject Engineer aska Dept. of Highways x 3-1000 neau, Alaska 99801	4/71-8/71			5		5

Title of job and Description of work. Be concise. Include magnitude and complexity of work on which you were engaged.

Grade Inspector, HEA I, grade 14 step C. Employed on the Sitka Bridge Project, responsible for assuring contractor's compliance with project specifications in the placing and compacting of roadway embankment, evaluated excavation for suitability in building roadway embankment, inspected the pouring and finisning of curb and gutter and sidewalk, installation of storm drains and inlets, and water lines.

EXPERIENCE RECORD SUMMARY
(Additional forms will be supplied upon request)

Engagement No. 6. Date Verified

Name and address of Supervisor (not deceased)	Dates of Employment Give Month and Year	Experience (Years in Months)				
		In Design	Responsible Charge	Prof.	Sub. of Prof.	Total Time
. James Nelson, P.E. strict Design Engineer aska Dept. of Highways x 3-1000 neau, Alaska 99801	5/69-8/69			3		3

Title of job and Description of work. Be concise. Include magnitude and complexity of work on which you were engaged.

Engineer in Training, HEA I, grade 14. Designed storm drain systems, frontage road, intersections, retaining wall, for the Sitka Bridge Project. Calculated estimated quantities of materials.

P. O. Box 60109
Fairbanks, Alaska 99701

February 24, 1975

State of Alaska
Department of Commerce
Division of Occupational Licensing
Pouch D
Juneau, Alaska 99801

Re: William D. Bradshaw, E.I.T.

Dear Sirs:

Mr. Bradshaw worked as an employee of Michael Baker, Jr., Inc., under my general supervision during the period from June 1973 through March 1974. His work assignments during this period included:

1. Survey Party Chief - Roadway Surveys
2. Survey Coordination and Supervision - Roadway Surveys
3. Roadway Design
4. Preparation of engineering drawings and exhibits necessary for road entrance permits onto Alaska State Highway system
5. Preparation of engineering drawings and exhibits for Corps of Engineers permits for work in navigable streams
6. Coordination of technical work effort in the analysis, collation and indexing of survey data for pipelines and roads

All of the noted work was accomplished under the direct supervision of a Registered Professional Engineer.

In the accomplishment of his assigned engineering duties, Mr. Bradshaw has shown a high degree of professional competence. His interest in and enthusiasm for the work of an engineer are highly commendable.

I strongly support Mr. Bradshaw's application for registration as a Professional Engineer in the State of Alaska.

Sincerely yours,

William B. McMullen, P.E.
Registration No. 2253E

WBMc/ew

bcc: Mr. P. A. Koonce
Mr. D. C. Harris
Mr. W. D. Bradshaw
Personnel File

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF COMMERCE

465-2540

DIVISION OF OCCUPATIONAL LICENSING / POUCH D — JUNEAU 99801

BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS AND LAND SURVEYORS

May 16, 1975

Mr. William D. Bradshaw
ALASKA INTERNATIONAL CONSTRUCTION, INC.
Box 60029
Fairbanks, AK 99701

Dear Mr. Bradshaw:

At its first meeting the newly appointed board reviewed your application for admittance to the April 19-20, 1975 examination. I regret to inform you that at this time it was not approved.

The Board concurred that you need 18 more months of professional experience in responsible charge. Your estimating and inspection work does not qualify as professional work in responsible charge.

If you attended the April 19-20, 1975 examination, the Board concurred that the exam grade will be invalid. Whether or not you pass you will be required to take it again when you become eligible.

Please update your experience record in letter form when you have fulfilled the required experience time. Be sure to include the names and addresses of your supervisors in order for your experience to be verified.

Your application will be considered abandoned after 18 months if we do not receive any correspondence by that time and filing a new application will be required.

Very truly yours,

Sharon Andrew
Director

L. Kingsbury

(Mrs.) Leilani Kingsbury
Licensing Examiner

ALASKA
INTERNATIONAL
CONSTRUCTION, INC.
P.O. Box 60029
Fairbanks, Alaska 99701
(907) 452-7171
Telex: 090-35454

May 23, 1975

Department of Commerce
State Board of Registration for Architects,
Engineers and Land Surveyors
Pouch D
Juneau, Alaska 99811

Gentlemen:

I have received your letter of May 16, 1975. Please consider this letter as a request to the Board for reconsideration of its decision rejecting my application for admittance.

It is my understanding after numerous phone calls to the licensing examiners office in Juneau, that many letters from professional engineers confirming my responsible charge of work experience were either lost or not timely received. If the Board had these letters, I am certain my application would have been accepted.

To assist me to prepare for my personal appearance before the Board on this request for reconsideration please send me the following information:

1. A copy of the procedure I must follow on reconsideration.

2. Names and addresses of all members of the Board.

3. An explanation of the method the Board utilizes in reaching concurrence on the acceptability of experience.

4. The Board's reasons for not accepting certain categories of my experience.

5. A copy of the Board's minutes of the meeting and, if available, a transcript of the proceedings of the Board when my application was considered and rejected.

I am requesting that the Board hold my application and test results for further review pending reconsideration. Please confirm the Board will comply with these requests.

Respectfully yours,

William D. Bradshaw

William D. Bradshaw
Construction Management Engineer

ENGAGEMENT NO. 1

Employer: Burgess Construction Company Title: Construction Bid Estimator

The applicant is claiming ten (10) months of responsible charge of work for Engagement No. 1. The applicant performed the following functions during this engagement:

I. Engineering Design

A. Access Roads
B. Temporary Bridges
C. Design of highway grades when required by contract documents.

II. Engineering Evaluations

A. Reviews plans to determine the adequacy and completeness of the engineering design and compatibility with field conditions.

B. Reviews contract specifications to determine compatibility with plans and field conditions to be encountered.

C. Reviews material reports to determine anticipated settlement, usability of excavation for embankment, aggregate for base courses, concrete, or asphalt mixes.

D. Evaluates item quantities for accuracy.

E. Investigates the projects in the field to determine if plans and specifications fit field conditions. Field conditions ranged from the arctic conditions at Prudhoe Bay to the temperate regions of Southeastern Alaska.

III. Engineering Consultations

A. Assist project personnel in the interpretation of plans and specifications to evaluate the design engineer's intent.

IV. Engineering Management

A. Develop methods of construction.
B. Estimate equipment and manpower requirements.
C. Calculate manpower and equipment production rates.
D. Prepare estimates of project manpower and equipment costs.
E. Calculate labor and equipment hourly rates.
F. Locate and evaluate necessary subcontractors and materials.
G. Prepare project progress schedules.
H. Prepare project budgets.

All of the described functions were accomplished under the applicant's direct control and personal supervision.

ENGAGEMENT NO. 3

Employer: North Star Borough Title: Civil Engineer

The applicant is claiming two (2) months of responsible charge of work for Engagement No. 3. The applicant performed the following functions during this engagement:

I. Engineering Inspection

A. Approximately ten percent of the engagement involved the inspection of the Main Junior High renovation and preparation of pay estimates.

II. Engineering Drafting

A. Approximately twenty percent of the engagement involved the preparation of as-builts to commence a structural study of the "Big Dipper Recreational Center".

III. Engineering Design

A. Designed sewer and water lines from mains to buildings.

B. Designed hot water system for "Big Dipper Recreational Center".

All of the described functions were accomplished under the applicant's direct control and supervision.

ENGAGEMENT NO. 4

Employer: Alaska Department of Highways

Title: Location Project Engineer, HEA II, Grade 16

The applicant is claiming six (6) months of responsible charge of work for Engagement No. 4. The applicant performed the following functions during this engagement:

I. Engineering Design

A. In charge of acquiring design information and designing a small storm drainage system for Kake, Alaska.

B. Designed profile grade for Fish Creek Road Project at Juneau, Alaska.

II. Engineering Field Work

A. In charge of a survey crew involved in engineering surveys.

B. Study area drainage and make recommendations to design group.

C. Contact local officials about problem areas on the project site.

D. Determine what information should be recorded to assist the design group.

E. Determine the best possible alignment from observation of soils conditions, drainage characteristics, grade conditions, and availablility of borrow sources.

F. Field work was conducted in the Southeastern area of Alaska and involved engineering problems associated with this climatic zone.

III. Engineering Experience Required

A. Survey Experience

B. Design Experience

C. Construction Experience

D. Academic background in Civil Engineering

All the described functions were accomplished under the applicant's direct control and supervision.

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF COMMERCE

DIVISION OF OCCUPATIONAL LICENSING / *POUCH D — JUNEAU 99801*

BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS AND LAND SURVEYORS

July 30, 1975

Mr. William D. Bradshaw
ALASKA INTERNATIONAL CONSTRUCTION, INC.
P.O. Box 1410
Fairbanks, AK 99707

Dear Mr. Bradshaw:

At a recent Board Meeting your application was submitted and again reviewed by the Board, attached was your letter of June 20 which elaborated your experience. Upon reviewing your application it was determined and concurred by the Board that you would not be required to re-take the Professional Engineering Exam, if you are successful with the April attempt. It was also concurred that you need six months more experience as of July 25, 1975..

Please provide this experience in writing to this Board upon completing the required amount of months indicated.

Very truly yours,

Sharon Andrew
Director

Sandi Gammons
Licensing Examiner

ALASKA
INTERNATIONAL
CONSTRUCTION, INC.
P.O. Box 1410
Fairbanks, Alaska 99707
(907) 452-1271 or 456-6846
Telex: 090-35435

August 8, 1975

Department of Commerce
State Board of Registration for Architects,
Engineers and Land Surveyors
Pouch D
Juneau, Alaska 99811

Gentlemen:

I am complying with your letter of July 30, 1975 requesting six months of additional experience be submitted in writing for your review. I have outlined six months of additional experience in responsible charge on the attached page.

I have received your letter of August 6, 1975 informing me that I have successfully passed the Professional Engineering examination in Civil Engineering. The letter implies that I am required to complete a study on arctic engineering. I completed the required course, CE 603, during 1971 - 1972 school year and received the letter grade of "A". This course is listed on the official transcript from the University of Alaska submitted with my application.

Please notify me if any additional information will be required to successfully complete my application for registration.

Respectfully yours,

William D. Bradshaw

Willaim D. Bradshaw
Construction Management Engineer

WDB/ta

enclosure

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF COMMERCE

DIVISION OF OCCUPATIONAL LICENSING / POUCH D — JUNEAU 99801

BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS AND LAND SURVEYORS

August 15, 1975

Mr. William D. Bradshaw
ALASKA INTERNATIONAL CONSTRUCTION, INC.
P.O. Box 1410
Fairbanks, AK 99707

Dear Mr. Bradshaw:

To bring the status of your application up to this date all that you are lacking to fulfill the requirements for registration is the extra 6 months experience. Passing of the Course CE 603 has been verified.

Your updated experience record will be submitted to the next Board meeting scheduled for September 18-19 in Fairbanks. You can expect to be contacted by mail as to the Board's concurrence in review of your application.

Very truly yours,

Sharon Andrew
Director

Sandi Gammons
Licensing Examiner

BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS AND LAND SURVEYORS

July 30, 1975

Mr. William D. Bradshaw
ALASKA INTERNATIONAL CONSTRUCTION, INC.
P.O. Box 1410
Fairbanks, AK 99707

Dear Mr. Bradshaw:

At a recent Board Meeting your application was submitted and again reviewed by the Board, attached was your letter of June 20 which elaborated your experience. Upon reviewing your application it was determined and concurred by the Board that you would not be required to re-take the Professional Engineering Exam, if you are successful with the April attempt. It was also concurred that you need six months more experience as of July 25, 1975..

Please provide this experience in writing to this Board upon completing the required amount of months indicated.

Very truly yours,

Sharon Andrew
Director

Sandi Gammons
Licensing Examiner

tain additional experience, this obviously means that they have rejected and refused to accept some of the experience already submitted by Mr. Bradshaw. Would you please advise me, specifically, of what experience of Mr. Bradshaw's has been rejected by the State Board of Registration for Architects, Engineers and Land Surveyors, and the reasons or grounds for said rejection.

Would you please respond to this inquiry as soon as possible.

Very truly yours,

RICE, HOPPNER & HEDLAND

Lloyd I. Hoppner

LIH/cmb

cc: William D. Bradshaw
Post Office Box 81712
College, AK 99701

RICE, HOPPNER & HEDLAND
ATTORNEYS AND COUNSELORS AT LAW
SUITE A-TEAMSTERS BUILDING
P. O. BOX 2551
FAIRBANKS, ALASKA 99707
(907) 452-1201

JULIAN C. RICE
LLOYD I. HOPPNER
JOHN S. HEDLAND
GEORGE E. SMALL
MILLARD F. INGRAHAM
H. JOHN DENAULT III
HUGH W. FLEISCHER
CHRISTOPHER R. COOKE
SAUL R. FRIEDMAN
PATRICK T. BROWN
DAVID A. ENGELS

CHARLES J. CLASBY
OF COUNSEL

ANCHORAGE OFFICE
1016 WEST 6TH AVENUE (99501)
(907) 279-5528

BETHEL OFFICE
P. O. BOX 555 (99559)
(907) 543-2850

VALDEZ OFFICE
P. O. BOX 486 (99686)
(907) 835-4365

November 20, 1975

Miss Sandi Gammons
Licensing Examiner
State of Alaska
Department of Commerce & Economic Development
Pouch D
Juneau, Alaska 99801

Re: William D. Bradshaw

Dear Miss Gammons:

I have received a copy of the letter which you sent to Mr. Bradshaw in response to my letter inquiring as to the reasons for the rejection of Mr. Bradshaw's experience. In your letter of November 5, you state that, "The Board feels that it is being quite generous in it's judgement . . . .". However, that does not answer the questions raised in my letter. I wish to know what experience that was tendered by Mr. Bradshaw was rejected by the Board and what the reasons were for its rejection. I can tell nothing from your letter of November 5, 1975. I believe that I, as the attorney for Mr. Bradshaw, and Mr. Bradshaw himself have a right to know specifically what experience of his was rejected and the reasons for its rejection. I don't believe that the law is satisfied simply by stating the conclusion that the Board felt it was being "generous".

Therefore, would you please advise me, specifically, what experience of Mr. Bradshaw's was rejected by the Board and the reasons for the rejection.

Very truly yours,

RICE, HOPPNER & HEDLAND

By: /s/
Lloyd I. Hoppner

LIH:ad

cc: Mr. William D. Bradshaw
Alaska International Construction, Inc.
P.O. Box 1410
Fairbanks, Alaska 99707

RICE, HOPPNER & HEDLAND
ATTORNEYS AND COUNSELORS AT LAW
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(907) 543-2850

VALDEZ OFFICE
P. O. BOX 466 (99686)
(907) 835-4345

December 8, 1975

Miss Sandi Gammons
Licensing Examiner
State of Alaska
Department of Commerce & Economic Development
Pouch D
Juneau, AK 99801

Re: William D. Bradshaw

Dear Miss Gammons:

Enclosed is my letter of November 20, 1975. Would you please furnish me with the information I have requested.

Very truly yours,

RICE, HOPPNER & HEDLAND

Lloyd I. Hoppner

LIH/cmb

cc: Willaim D. Bradshaw

ALASKA
INTERNATIONAL
CONSTRUCTION, INC.
P.O. Box 1410
Fairbanks, Alaska 99707
(907) 452-1271 or 456-6846
Telex: 090-35435

January 9, 1976

Department of Commerce
State Board of Registration for Architects,
Engineers and Land Surveyors
Pouch D
Juneau, Alaska 99811

Gentlemen:

I am submitting five months of additional experience in responsible charge of work to be included with my application for registration as a Professional Engineer in Civil Engineering. I have outlined the five months of additional experience on the attached page. With this submittal my application should show 68 months in professional work and 39 months in responsible charge of work for a total of 107 months of experience having been submitted to the Board for its review.

I have noticed in some of your correspondence that I am being evaluated as a "Project Engineer." I have never been employed by Alaska International Construction, Inc. or Burgess Construction Company as a "Project Engineer." During my employment with these companys, they have employed on the average three engineers who were classified as "Project Engineers." I do deal with these individuals as a consultant and in some cases at a supervisory level.

Respectfully yours,

William D. Bradshaw

William D. Bradshaw
Construction Management Engineer

WDB:ta

cc: Lloyd I. Hoppner

RICE, HOPPNER & HEDLAND
ATTORNEYS AND COUNSELORS AT LAW
SUITE A-330 WENDELL STREET
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HUGH W. FLEISCHER
CHRISTOPHER R. COOKE
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BETHEL OFFICE
P.O. BOX 555 (99559)
(907) 543-2850

VALDEZ OFFICE
P.O. BOX 468 (99686)
(907) 835-4365

January 22, 1976

Sharon Andrew, Director
State of Alaska
Department of Commerce & Economic Development
Pouch D
Juneau, AK 99811

COPY

Re: William D. Bradshaw

Dear Ms. Andrew:

I have received your letter of January 13, 1976 and a copy of the letter that was sent to me on December 8, 1975, but never received. I have reviewed your letter of December 8, 1975 and while I appreciate the candid manner in which you advised me of the Board's procedure, I am appalled by the secret way in which the Board considers applications. The statutes specifically provide that the Board is to be governed by the Administrative Procedures Act, which requires publication, notice and hearing of any and all regulations that the Board wishes to operate under. Now however, I am told that the Board has a "secret" regulation which has never been published and which the citizens of the State have never had a opportunity to comment on before its adoption. Although the Board may very well wish to operate under its "secret" regulations and "pull-up-the-ladder" on the new engineer applicants, nevertheless, the Board is bound to operate in conformity with the published and accepted regulations which are found in 12 AAC 36.010, et seq. These regulations were adopted pursuant to authority granted by statute in AS §08.48.011. Neither the statutes nor the published regulations contain anything close to the "secret" regulations you quoted to me in your letter of December 8, 1975. There is no question but that the experience that has been provided by Mr. Bradshaw meets the requirements of the statutes and of the published regulations, therefore,

William Douglas Bradshaw

Home Address: Box 81712
College, Alaska 99701

Home Phone: 479-6998

Business Address: Alaska International Construction, Inc.
P.O. Box 1410
Fairbanks, Alaska 99701

Business Phone: 452-1271

May 16, 1975

Letter from the Board informing me that I required an additional 18 months of experience and that my estimating and inspection work would not qualify as professional work in responsible charge. The letter did not explain why the estimating and inspection work would not qualify even though it was accomplished under my direct control and under the supervision of registered professional engineers. Paragraph four immediately bothered me since emphasis was placed on my including the names and addresses of my immediate supervisors as if the Board had been unable to verify my experience. I then placed several phone calls to Juneau, I believe on the 19th and 20th of May, to check on my application. Mrs. Kingsbury was on vacation and thus not available to answer my questions. Her replacement checked my file and could find one letter of verification, out of the five requested, which was from Mr. James Nelson, P.E.. Verification from Mr. Bergdoll, Mr. Pierce, Mr. Palmer, and Mr. Hendrix could not be located. She then informed me that I should wait and contact Mrs. Kingsbury when she returned from vacation. I contacted Mrs. Kingsbury by telephone on approximately May 21, 1975 and asked her about my application. She informed me that all the letters of verification, except the one from Mr. Bergdoll which had not been received, were with my application when it was reviewed by the Board. She also informed me that sometimes the difficulty with having experience accepted by the Board is that the description submitted by the applicant is to brief. I also requested information on how I could appeal the Board's decision.

As a comment, on a later business trip to Juneau, I went to see Mrs. Kingsbury somewhere around the first part of June. While she would not let me look through my file, she did try to answer my questions and showed me that certain information was in the file. I found it interesting that the letters of verification were together and have a very distinct format. I can not prove that they were added after the fact, but I consider it suspicious that the girl that replaced Mrs. Kingsbury while she was on vacation was able to locate one of the letters but not the rest. I made a request that Mrs. Kingsbury send a new verification of experience form to Mr. Bergdoll. Later that day I talked to Mr. Bergdoll and he informed me that he had sent in the letter of verification a couple of months earlier.

May 22, 1975

Letter from the Board informing me how I could appeal the Board's dicision regarding my application.

they had to mean an additional six months in addition to the experience submitted with the original application and that this decision had been made at their meeting on July 25, 1975.

August 6, 1975 — Form letter from the Board informing me that I had passed the Professional Engineering Examination and that I needed to complete an arctic engineering requirement. The letter also contained a note about the six months additional experience required.

August 8, 1975 — Letter to the Board that I had completed the required arctic engineering course and I submitted the additional six months experience requested by the Board.

August 15, 1975 — Letter from the Board acknowledging receipt of my letter of August 8, 1975.

September 23, 1975 — Letter from the Board clarifying that I needed an additional six months of experience as of July 25, 1975 and referring me to their letter of July 30, 1975.

I do not know how the Board arrived at this six months additional requirement since I had not before their meeting in September submitted a summary of my experience covering the period from February to July 1975. In essence, the Board is now saying that I need an additional 11 months over that submitted with my original application. I still do not know what experience is being denied and why it is unacceptable. I am no closer to the truth than when this started May 15, 1975.

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

STATE OF ALASKA

JAY S. HAMMOND
GOVERNOR

DEPARTMENT OE COMMERCE &
ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D — JUNEAU 99811

March 2, 1976

The Honorable Bob Bradley
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Bradley:

I have received a copy of a letter addressed to you from Mr. Vern Johnson, President of the Alaska Society of Certified Public Accountants and Vice-President of the State Board of Public Accountancy concerning HB 578 and offer the following comments on Mr. Johnson's observations:

HB 578 is designed to assist the State in the accomplishment of several legitimate State objectives, one of which is the retention of State control of its occupational licensing function. Several federal agencies have already initiated actions designed to ultimately usurp this authority. Their position is that in practice, occupational licensing is many times used in a manner contrary to federal law and national objectives. It is our position that Alaska and Alaskans have a significant stake in both the substance of change and the way it is implemented in occupational licensing and that we cannot permit these challenges to go unanswered.

The Legislature is currently considering bills which if enacted would create thirteen additional State licensed occupations and seven examining boards. These are not simple registration or revenue producing bills. These represent licensing in its most restrictive form, which places severe limitations on an individual's right to work in his chosen occupation. This right is a property right protected by the First Amendment to the Constitution. The court's have consistently ruled that such restrictions must serve a compelling state interest and be clearly shown to be the least restrictive means available to do so. The increasing federal challenges to such statutes and specific sections of them as well as private suits and consumer actions mandate that the State take action which will assure that the State's objectives are accomplished in a manner consistent with constitutionally protected rights.

The complexity of the legal issues involved in occupational licensing is such that the Commission would be seriously handicapped if counsel were not readily available. To this end, it is proposed that one of the Commission members be an attorney. The special interest aspect of this member is negated by the provisions of Section .110 of the bill which

prohibit a Commission member from acting upon a matter in which his relationship with another person creates a conflict of interest. In the absence of any other definition, person under Alaska Statutes means any natural person, corporation, association, partnership or other legal entity. The attorney member of the Commission would automatically be precluded from acting on any matter before the Commission which concerned the practice of law.

Empowering the Department of Commerce and Economic Development to perform the anticipated functions of the Credentialing Review Commission was considered in drafting HB 578. The line agency responsible for most of the administrative support functions of licensing boards may not, however, be capable of achieving the same degree of impartiality and credibility that a Commission could achieve.

The fiscal note which accompanied HB 578 provides not only for travel for Commission members, but also for two full-time staff positions for the Commission. It is anticipated that the Commission will be responsible for policy development based on research and public input. The staff will be responsible for coordinating research activity and public hearings and providing administrative services to the Commission.

I believe this is a reasonable and realistic approach to identifying and finding solutions to the many problems involved in achieving the delicate balance of individual rights and adequate public safety in the area of occupational licensing.

Sincerely,

Langhorne A. Motley
Commissioner

cc: The Honorable Jay S. Hammond
Vernon R. Johnson
Senator Jay Kerttula
Senator Ed Willis
Senator Mike Colletta
Representative Tim Wallis
Representative Helen Fischer
Representative Oral Freeman
Representative Ramona Kelley
Representative Leo Rhode
Representative Richard Urion
Members of the State Board of Public Accountancy
Members of the Board of Directors Alaska Society of CPAs
Anchorage Daily News
Anchorage Daily Times
Members of Alaska Society of CPAs

AMERICAN SOCIETY OF CIVIL ENGINEERS
ALASKA SECTION

Branches at
Anchorage
Fairbanks
Juneau

March 25, 1976

Mr. Bob Bradley
Pouch V
Juneau, Alaska 99801

Dear Mr. Bradley:

Through our legislative activities committees the membership of the Alaska Section of the American Society of Civil Engineers has become aware of, and much concerned about, a number of bills currently before the legislature dealing with the credentialing and licensing of the professions in general and civil engineering in particular. We respectfully submit the following comments, representing the viewpoint of our membership of over 500 practicing civil engineers in the state of Alaska, for your consideration with respect to this proposed legislation.

Rather than attempting to comment on each of the several bills we are currently aware of, we will confine our comments to what we perceive as the two general areas of concern. These are the general concept of establishing a credentialing review commission (e.g. HB-578) and the general idea (e.g. SB 537, 524) of placing so-called public or lay members on the Board of Registration for Engineers, Architects, and Land Surveyors (hereinafter "the Board").

The credentialing review commission bill claims, among other things, that "regulation inhibits competition and restricts the individuals right to work in the occupation of this choice." We do not completely disagree with this statement and submit that, with a rather slight re-wording, this is perhaps as it should be. That is, "the regulation of a profession, limiting practice and competition to those who have demonstrated a minimum degree of competence, is in the public interest - albeit the 'right' of an unqualified individual to represent himself as a professional practioner is restricted." We submit, further, that neither the Alaska State legislature nor the existing boards need this commission, this somewhat nebulous accumulation of political appointees and professional bureaucrats, to decide for them which legislation and/or board-adopted rules are "appropriate", are "in the public interest", or are "necessary."

As to the matter of "public" or "lay" members on the Board, we submit this is neither necessary nor practical. We are aware of no

significant level of complaints of unfair withholding of license or restriction of competition in the profession of civil engineering in this state due to the actions of the Board. The private practice of civil engineering is, in fact, one of the most highly competitive in the entire sphere of economic activity. So-called public members of the Board, being by requirement untrained in the field being regulated, could do little but confuse and delay the evaluation of the technical competence of applicants - the Board's primary purpose. As to investigating and acting on allegations of incompetence, unfair restriction of competition, or other mal-feasance, the Board swelled by the proposed public members would be as ineffective due to a lack of funds with which to carry on these activities as is the present Board.

We encourage your opposition to the above discussed legislation and your support of our efforts to increase the level of funding and public service of the Board. This will merely require allowing the Board to retain for its operations monies it collects in license renewal fees. Currently the activities of the Board are very severely restricted in that the Board has no budget and it cannot independently investigate and take action on any alleged wrongdoing. It is funded at the discretion of (and is thus controlled by) the Director of the Division of Occupational Licensing. This constitutes, in our opinion, an usurpation of power by the Director that is clearly contrary to the letter and the intent of the original statutes governing the professional registration of engineers.

We will continue to carefully monitor developments in this area and will be encouraging our membership to contact you individually on these matters.

Very truly yours,

F. Lawrence Bennett

F. Lawrence Bennett
President, Alaska Section
ASCE

FLB.JAM.mts

cc: Ms. Sharon Andrew
Director, Division of
Occupational Licensing

STATE OF ALASKA

JAY S. HAMMOND
GOVERNOR

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D — JUNEAU 99811

March 3, 1976

The Honorable Bob Bradley
Chairman
House Commerce Committee
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Representative Bradley:

On January 29, 1976, House Bill 578, An Act Creating the Alaska State Credentialing Review Commission was considered by the House Commerce Committee. I understand the following amendments were made by the Committee:

1) page 2, line 14, delete "or be the spouse of";
2) page 3, line 3, delete "at least once a month";
3) page 4, line 22, delete all of Sec. 08.03.130: and
4) page 5, line 10, delete "shall" and insert may.

The Department felt the Committee amendments were wise, and I understood the bill was to be further reviewed on February 2, 1976, to allow for additional Committee member comments, before being passed out of Committee. Since this has not occurred, when will this bill be heard again?

Sincerely,

Langhorne A. Motley
Commissioner

HB 582

"An Act relating to regulation of insurance; and providing for an effective date."

COMMITTEE REPORT

1/15/76

FINANCE

HOUSE

Mr. Speaker: Date 1/15/76

The Committee on COMMERCE has had HB 582

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE POUCH D — JUNEAU 99811

January 20, 1976

The House of Representatives
Commerce Committee
Juneau, Alaska

Dear Ladies and Gentlemen:

On Wednesday, January 21, I will discuss with you HB 582 "An act relating to regulation of insurance and providing for an effective date".

This bill deals with several subjects all of which are technical changes in the Insurance Code but very necessary to the proper regulation of insurance.

Section 1 provides for a charge of $10.00 to cover the cost of issuing an amended certificate of authority. Currently we charge $10.00 to cover the cost of issuing routine documents, however, no charge is made for the issuing of the amended certificate of authority. This is a frequent demand upon the Division and it is appropriate that the cost be wholly or partially reimbursed by the carriers seeking the certificate.

Section 2 changes the capital and surplus requirements for the licensing of insurance carriers. Under current law the carrier must have a minimum amount of capital plus an additional minimum amount of surplus before the State will issue a license to do business. The capital and surplus are the funds which add financial stability to the policies which the carrier issues. These funds are the buffer which prevent insovency in the event premiums charged are insufficient to cover losses and operating expenses. The capital and surplus requirements were established when the code was enacted in 1966 and have not been changed since that time. The actual increases are set forth in the bill, however, they are essentially double that of the current requirement. For example, a property and casualty insurer multiple lines, that is all lines of insurance except life and title, under current law may obtain a license with $400,000.00 capital and $200,000.00 surplus. We recommend increasing these limits to $750,000.00 capital and $750,000.00 surplus for a total of 1,500,000.00. These requirements are within range of the more recently enacted requirements for capital and surplus by other states.

Section 3 is a grandfather and transition provision. Under its terms carriers already licensed as domestic insurers in this state which have adequate capital under current law but would have inadequate capital or surplus under the new law are permitted to continue under the old requirements but are prohibited from adding new lines of insurance or from paying for distributing dividends to policyholders or stockholders until they have acquired sufficent capital and surplus to meet the new requirements.

Section 4 will give the Director authority to require foreign carriers, that is carriers authorized to do business in this State but domiciled in other states, to post deposit of cash or securities in amounts not less than $300,000.00. Currently the law provides that foreign carriers need post a fixed sum of $200,000.00 and that requirement is met if the filing of the deposit is made in their own state. This latter described law has prohibited the Director from exercising rights which would have protected the policyholders in the State of Alaska from loss by reason of the insolvency of a foreign carrier. It is imperative that the Director of Insurance have authority to require deposits be lodged in the State of Alaska where the Director finds it necessary for the protection of policyholders.

Section 5 adds two new definitions of insurance. Currently the Insurance Code provides for separately licensing a company and separately licensing agents and brokers, depending upon the kinds of insurance which the agent and broker or the company chooses to market. There are two kinds of insurance which presently do not fall within the existing definitions and yet are either currently being sold or which very likely will be sold in the near future. Those insurances are mortgage guarantee insurance and legal expense insurance. It is appropriate to anticipate the marketing of these kinds of insurance by providing proper definitions and establishing separate license requirements therefore. The amendments in Section 5 will accomplish this purpose.

Section 6 modifies the definition of domestic insurer for purposes of Chapter 21. Chapter 21 deals with the investment by a domestic insurer. The definition is altered to include those carriers which write more business in the State of Alaska than in the state of domicile and where the Alaska premiums exceed 33% of all of that carriers premiums. This statute addresses the situation of carriers who are licensed outside the State of Alaska but come into the State for purposes of selling insurance without complying with the more rigid laws to which the genuine domestic is subject.

Section 7 adds to the definition of adjustor, by deleting the term from the exclusion sentence, the marine average adjustor and the employee of a general agent.

Section 8 attempts to close a loophole in the tax law. Insurance placed with a nonadmitted market, that is with carriers not authorized to do business in this state, is arranged through specially licensed brokers called surplus lines brokers. Since the carriers are not regulated by this Division the tax can only be collected from the surplus lines broker and is called a surplus lines tax. The tax is equal to 3% of gross premiums. The law excludes the operation of the surplus lines law, including the tax law, with respect to insurance of aircraft owned or operated by manufacturers of aircraft. I am advised that this has its history in a law enacted in the State of Washington for the benefit of Boeing Aircraft. The same considerations do not apply in the State of Alaska and there is no reason why aircraft operators ought to be allowed to lease aircraft from manufacturers in order to avoid the application of surplus lines tax. I am advised that the amounts involved are probably close to $10,000.00 overall.

Section 9 is made necessary by the inclusion of the definitions of mortgage guarantee insurance and legal expense insurance which is provided for earlier in the bill. It is not appropriate that Section 21.36.190, the fictitious group rating law, be made applicable to these new lines of insurance. Thus as the new definitions are created it is necessary to also provide for exclusions from the application of the fictitious group rating law.

I trust that you will find this explanation helpful in your understanding of the bill. If I can provide further information please feel free to call upon me.

Yours cordially,

Richard L. Block
Director

HB 584

"An Act relating to substitution of prescription drugs by pharmacists."

COMMITTEE REPORT

1/15/76

JUDICIARY

HOUSE

Mr. Speaker: Date _____

The Committee on COMMERCE has had HB 524 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACH. AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

February 10, 1976

Raymond T. Bonner
Consumers Union
433 Turk Street
San Francisco, Ca. 94102

Dear Ray:

I am writing to let you know that our bill permitting generic substitution has passed its first test and gotten through the House Commerce Committee. At the same time, I have forwarded your suggestions on the bill to the House Judiciary Committee and I am sure they will be incorporated in the bill.

You will be pleased to hear that we were able to tack on a price-posting requirement as well, because one of our members thought to mention the price list she had seen in a California pharmacy.

I am enclosing a copy of the committee substitute that we passed.

Thank you for the editorial. I have sent a copy to Carol Larsen so that she may forward it personally to one of the Anchorage newspapers. I also appreciate the other articles. You will be interested to know that Representative Bradley, for whom I work, introduced a bill last year on the subject of item price labeling.

Sincerely,

Terry Berman
Administrative Assistant
House Commerce Committee

Enclosure

THE LEGISLATURE OF THE STATE OF ALASKA
FISCAL NOTE
Second Session - Ninth Legislature

I. REQUEST
Bill No. CS House Bill 584
Title: An Act relating to substitution of prescription drugs by pharmacis
Requested by: _____ Date: February 4, 1976
Return Date Requested: _____
Agency: Commerce Program: Licensing of Professions

II. FISCAL DETAIL
Budget Request Unit(s) Affected: Regulating and Licensing of Professions
A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL	.3	.3	.4	.4	.5	.5
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	.3	.3	.4	.4	.5	.5

B. FUNDING: (Thousands of dollars)

GENERAL FUND	.3	.3	.4	.4	.5	.5
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	0/0	/	/	/	/	/
MAN MONTHS (P./T.)	/	/	/	/	/	/

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Assumes printing 200 12" x 18" signs on poster board and mailing same per year. Assumes 10% inflation and an effective date before July 1, 1976.

IV. ATTACHMENTS

V. DATE: February 4, 1976 PREPARED BY: Sharon Andrew, Director

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

H/S 50

Rodman Wilson, M.D.
Hilton Hotel, Room 710
Alaska State Medical Association

Suggested Substitute Language
for
HB 584

For Act Entitled: An Act relating to substitution and labeling of prescription drugs by pharmacists.

Section 1. AS 08.80.290 and AS 08.80.295 are repealed and re-enacted to read:

Sec. 08.80.290 SUBSTITUTION. In billing a prescription a pharmacist shall supply a patient with the least expensive product he has in stock so long as it has the same dosage form and therapeutic effect as the drug prescribed by the physician, osteopathic physician, dentist, or veterinarian; except that:

(1) A prescriber may specify orally or in writing but not by stamping or preprinting on prescription forms, that no substitution is permitted, and

(2) A patient or his surrogate may instruct the pharmacist orally or in writing that he does not want substitution.

Sec. 08.80.295 AFFIXING OF LABEL. At the time of dispensing a prescription there shall be affixed to the container of a prescription a label bearing the name, address, and telephone number of the pharmacy filling the prescription, the date, the serial number of the prescription, the name of the patient, the name and instructions of the prescriber, the initials of the registered pharmacist who prepared the prescription, and the name and strength of the drug contained in it unless a physician, osteopathic physician, dentist, or veterinarian specifies orally or in

writing, but not by stamping or preprinting on prescription forms, that the name and strength not appear on the container. When a drug name is affixed, the name shall be as follows:

(1) As prescribed if no substitution has been made under Sec.290 of this chapter.

(2) Generic name and either brand or manufacturer's name if a single drug agent is prescribed by brand name and a substitution has been made under Sec. 290 of this chapter.

(3) Brand name or generic names or common abbreviations if substitution is made under Sec. 290 of this chapter for a product containing a mixture of pharmacologically active substances.

(4) "Dr (name)'s mixture" if a mixture of drugs does not have a name.

Sec. 08.80.310 is repealed and re-enacted to read:

The Commissioner of Health and Social Services shall publish a formulary of generic drug types and drug products which the Commissioner of Health and Social Services determines demonstrates clinically significant biological or therapeutic inequivalence and which, if substituted, would pose a threat to the health and safety of patients receiving prescription medication. No pharmacist shall dispense a generically equivalent drug product if the drug product and its generic drug type is included in the formulary.

Sec. 2. AS 08.80.460 is amended by adding a new subsection to read:

(b) a person who violates the provisions of Sec. 290 or Sec. 295 of this chapter is punishable by a civil fine in an amount established by the Board in a schedule or schedules establishing

the amount of civil fine for a particular violation. The schedule or schedules shall be adopted by the Board by regulation. Any civil fine imposed under this section may be appealed in the manner provided for appeals in the Administrative Procedures Act (AS 44.62).

Sec. 08.80.480 is amended by adding:

(20) "brand name" means the proprietary or trade name of a drug product.

(21) "generic name" means the official name of a drug as listed in nationally recognized pharmacopoeias.

HB 584

January 27, 1976

Mr. Raymond Bonner
Consumer's Union
433 Turk Street
San Francisco, California 94102

Dear Mr. Bonner:

I am enclosing a copy of the bill presently before the House Commerce Committee. Please feel free to offer criticism. A bill, identical in form except for the inclusion of a formulary, was introduced in the Senate.

If you can send some sort of signed letter to us, I will attach that to a revised copy of the testimony presented in California and present it to the Committee.

Thanks for your help.

Sincerely,

Terry Berman, Administrative Assistant
House Commerce Committee

January 21, 1976

MEMORANDUM

TO: Bob Bradley

FROM: Terry Berman

SUBJECT: HB 584, Major points on substitution of generic drugs for brand-name prescription

1) The generic drug is always cheaper than the brand-name drug even though they may be identical. Also there is no justification that a brand name drug is necessarily a better product. A good example is ampicillin manufactured by Bristol Laboratories, which is distributed by four firms. The disparities in price among the four is astonishing. Bristol, which distributes ampicillin under the name Polycillin, wholesales for $18.24. Smith, Kline, and French distributes the ampicillin manufactured by Bristol at the price of $12.00. ICN Pharmaceuticals distributes Bristol's ampicillin through its brand-name division for$14.80 and through its generic division for $7.50. Note the differential between $7.50 and $18.24.

2) In answer to the argument that chemically equivalent drugs are not necessarily bioequivalent (meaning that when administered in same amount they do not provide the same therapeutic effect), the Department of Health, Education, and Welfare's report from the Task Force on Prescription Drugs stated that only in rare instances would equivalent drug products not produce the same therapeutic effects. A U.S. Senate committee concluded the same. HB 584 (Committee Substitute) has two provisions that respond to this problem of inequivalency. First, the physician can always specify that there be no substitution. Second, the Commissioner of Health, Education and Social Services will draw up a formulary specifying which drugs are and are not bioequivalents.

3) Giving the pharmacist some discretion takes into account his extensive training and his knowledge of drug products, which in some instances may be greater than other health professionals. Physicians lack drug price comparison data which would allow them to chose the best drug at the lowest available price.

4) People over 65 account for 25 per cent of the retail drug expenditures. On prescriptions to the elderly, the average cost per prescription is $3.91. For brand names alone the average cost per prescription is $4.11 while generic name prescriptions average $2.02.

5) There are 11 states with legislation permitting substitution: Arizona, Kentucky, Arkansas, Oregon, Minnesota, Connecticut, Michigan Maine, Massachusetts, Florida, and Maryland.

6) Groups that have endorsed such legislation: American Pharmaceutical Association, American Journal of Pharmacy, National Academy of Sciences, Consumers Union and HEW Special Task Force.

7) Hospitals use generic name products.

HOUSE COMMERCE COMMITTEE
January 21, 1976

House Bill 584

The meeting was called to order by Chairman Bob Bradley noting that a quorum was present.

Ronald Sedgewick, owner of Ron's Apothecary and a member of the Alaska Pharmacy Association began the testimony on House Bill 584. He stated that he basically had no problems with the bill itself. He did, however, feel uncomfortable with some sections and wished to express them at this time. Section C concerning the posting of a sign was a good idea and was intended for the consumer's benefit. It does, however, offend the professional standards. If a sign was posted it indicates dishonesty in the past. Section E pertaining to the physician using the generic name and the pharmacist must then issue the drug which is the lowest priced. He felt that often the lowest priced drug is not the best and would not select such a drug for his own family. He felt it should be left up to the pharmacist to select the best drug and still give the customer the best deal.

Chairman Bradley stated that Section 1 08.80.205 might answer the objection to Section E. That section gives the pharmacist the option of using his professional judgement.

Mr. Sedgwick felt that the section should be eliminated due to the option the physician has in writing the prescription. He continued stating that in Section G pertaining to labeling was also not necessary due to how the law presently is. He did suggest that an addition be made under that section. The addition being the name and quantity of the drug for the purpose of emergency care. Hospitals often refer to him for the quantity of the drug he issued and this would make it easier on hospital personnel. The Section which states that the Department of Health and Social Services was to provide a formulary seemed unrealistic. The department does not have the resources to provide such a formulary. The Federal department has been working on a list for the last three years and the department would probably have to issue the Federal list.

Rep. Urion questioned whether or not it was typical of pharmacists to stock all brand names of one drug.

Mr. Sedgwick stated there are a number of multiple drugs. They are now able to select from major companies with price in mind. He again stated that price should not be the only criteria, the best drug at a lower price.

Mr. Jim McCorcle, owner of Harry Race Drug Store, stated he was representing the Alaska Board of Pharmacists. The Board had reviewed the bill and generally agreed with it. They did feel that it was not possible for the Board to administer the formulary. Much of the Board's feeling were the same as Mr. Sedgewick had expressed.

Dr. Rodman Wilson, member of the Alaska State Medical Association Committee on Legislation and past President, testified that the committee had alot to do with the present statutes and feel they are fairly workable. The main purpose of the bill was to save the consumer money. He stated that physicians by and large do not know much about the price of individual drugs and how they are sold. The Committee felt that some changes were needed in the bill. He referred to the section pertaining to who prescribes drugs describing them as "medical practioners". It could be defined more by using the common language as presently in the statutes; "physicians, osteopathic physicians, dentists or veternarians". Also all through the bill it describes the communication between the physician and the pharmacist as "telephonic" and he felt it should be changed to "orally" which gives a little more lead way. The Committee also objected to the sign to a point of ascetics. It implies in a subtle way that doctors were trying to give people expensive drugs on purpose. It is unnecessary because the pharmacist has to or should explain to them the substitution when it is done. He stated he could see the others objection to Section E. There are multiple drug agents selling a single substance but one or two have some different active ingredients. The bottles are not big enough to list all the ingredients. He continued stating that the Committee also had their doubts whether or not Health and Social Services could produce a formulary. They would probably just rely on the FDA's list. He surmised that it was included for the purpose of taking the pharmacists off the hook as far as liability was concerned. The pharmacists would be taking alot of responsibility. He then submitted in writing to the members some of the language changes he had discussed.

Rep. Freeman questioned whether or not there was a monetary benefit to physicians on the drugs they prescribe.

Dr. Wilson stated that it was basically unethical by all standards and he wasn't sure if physicians were allowed to own pharmacies.

Chairman Bradley questioned if physicians received free samples from drug companies.

Dr. Wilson replied not as frequently as in the past. He added one other remark concluding his testimony. If not for the drug industry we wouldn't have all the advances we now have and they should be aware of this.

David Freer, Special Assistant to Commissioner of Health and Social Services testified to the section which would apply to the department. He agreed with other witnesses that the department would not be able to carry out that section of the bill without the resources to do it. The department has one pharmacist who is at the Alaska Psychiatric Institute.

Chairman Bradley questioned the witnesses if they felt that if the section on a formulary would help lessen the liability of pnarmacists.

Mr. Sedgwick answer that yes it would help the legal liability question.

Chairman Bradley asked that someone clarify what type of training a pharmacist has and whether or not they know what kind of reaction a drug

would have on patients.

Mr. Sedgwick stated that all pharmacists receive training in bio-equivalents.

Senator Meland then asked to speak to the bill. He stated that the bill was based on the California law and he felt it would help. He then asked if it was true that major hospitals use generic drugs.

Mr. Sedgwick answered that major hospitals establish a formulary and then stock only one brand.

HOUSE COMMERCE COMMITTEE
February 2, 1976

House Bill 584

The meeting was called to order by Chairman Bob Bradley noting that a quorum was present.

Co-sponsor, Speaker of the House Mike Bradner was asked to begin the testimony by explaining the bill. Speaker Bradner stated that this had been recommended to him by many people. It was something which would clarify the process to the consumer. He further stated that he had discussed the bill with a number of pharmacists and some had definite concerns with this. Some pharmacists do do this now, however, their right to do it was a bit cloudy. The present bill is designed after the California statutes.

Representative Bradner further stated that he felt there were areas in the bill which needed to be amended. One area was that of the penalties as stated under the bill. He felt that no penalties should be placed on a pharmacist if he cannot comply. The bill should indicate that they do it but leave a margin for if they can't. Another area was that of the Commissioner of Health & Social Services to establish a list of generic substitutions. He was not sure they could accomplish this with the present staff.

Rep. Freeman questioned objections heard from pharmacists concerning a sign in each pharmacy. How important was the sign?

Rep. Bradner replied that it was not important either way and that it does have implications. Bradner continued stating that the section relating to the a physician must put in his own handwriting that there, could be no substitution, that he was unsure what it was designed to accomplish.

Rep. Wallis questioned whether or this bill would have implications of malpractice for pharmacists.

Chairman Bradley stated that there could be a liability.

Rep. Fischer objected to a pharmacist having the right to alter what a physician prescribes. Many people have a great deal of faith in their doctors and would not want this.

Rep. Rudd explained that the bill allowed a patient to also refuse substitution. Chairman explained further that a doctor could refuse substitution and described the section which states this.

Representative Bradley then asked to leave the Chair to testify on behalf of the bill. (see attached)

February 24, 1976

Mr. Paul May
SRA A Box 1447 B
Anchorage, Alaska 99502

Dear Mr. May:

Enclosed is a copy of the Committee Substitute for House Bill No. 584 as you requested.

The bill is presently in the House Judiciary Committee pending their review.

Sincerely,

Bob Bradley

HB 676

"An Act relating to registration, bonds and insurance required of construction contractors; and providing for an effective date."

COMMITTEE REPORT

1/30/76

HOUSE

Mr. Speaker: Date 1-30-76

The Committee on COMMERCE has had HB 676 under consideration. A Majority of the members of the Committee

(X) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

	Lisa Rudd	

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

January 30, 1976

The Honorable Mike Bradner
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

In accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill amending the law relating to registration of construction contractors.

At present, construction contracts may be entered into by an unregistered contractor, and therefore without the bond and insurance required as part of registration, only if the contract price of the total work to be performed is less than $1,000. This bill would increase that figure to $10,000.

The bill applies to very small jobs, where the entire work done by all contractors totals less than $10,000. Few registered (licensed) contractors like to do such small upkeep work. Finding a contractor to do such work becomes a problem and a heavy price has to be charged because the little job is considered a nuisance by the contractor.

More important, I am reliably informed that, even if he is experienced in his trade and has the highest recommendations, an applicant cannot get the bond required under AS 08.18.071, by existing insurance industry practice, unless he has a net worth of $75,000 and at least $15,000 in cash. Clearly many of the people who should be handling these very small contracts are being systematically excluded from entry into contracting by the requirements for registration.

The public liability and property damage insurance requirement for registration is not difficult to meet, and the present requirements in this regard are continued in the bill. However, a small contractor would not

be required to register solely to show that he carries liability insurance. Most will carry liability insurance as a matter of course, and registration solely to show that this insurance is carried would be unduly burdensome.

Sincerely,

Jay S. Hammond
Governor

HB 628

February 10, 1976

MEMORANDUM

TO: Bob Bradley

FROM: Terry Berman
Administrative Assistant

SUBJECT: Escrow Accounts, HB 678

Mortgage reserve, or "escrow" accounts were established as a response to the financial problems of the thirties when banks suffered losses as mortgage holders failed to meet tax payments. As a condition of borrowing, borrowers were required to make an additional payment with their monthly mortgage payment to pay for taxes and hazard insurance. This provided the banks with protection against foreclosure or losses due to damage.

Each month, the homeowner prepays 1/12 of the estimated annual taxes and insurance premiums. In Anchorage, municipal tax payments are made only twice a year. Thus, in the homeowner's eyes, his money lays idle much of the year. Of course, the money does not remain idle, but is invested by the lenders. In most cases, the homeowner receives no interest nor benefits, other than not having to take care of his tax and insurance payments himself.

House Bill 678 requires that an escrow account be treated as a savings account, with the borrower receiving interest at a half percent less than the prevailing rate of return from a U. S. Treasury Department Treasury Bill, which is how banks often invest funds from escrow accounts.

Two lending institutions in Alaska do pay interest on escrow accounts. Home Federal Savings and Loan pays 5¼ on all escrow accounts, with the average gain of $30 per year to the homeowner. Alaska Mutual Savings pays 3½ on balances to $700 and 5¼ when the balance exceeds $700. If interest were paid on escrow accounts at the current rate for savings accounts, a homeowner might receive $1,000 over the period of a thirty year mortgage. In fact, if all escrow accounts in the United States received 5% annual interest, American homeowners would gain $470 million dollars per year.

Requiring escrow to be paid into non-interest bearing accounts which are then invested may actually be a violation of the Federal Truth In Lending Law. Banks are required to state the true rate of interest, but with this interest-free loan they receive from borrowers, the actual interest rate to borrowers is higher than the stated rate.

The argument that banks give that the expense of escrow accounts justifies the non-payment of the interest is questionable. The difference between the rate of interest paid to homeowners and that received by the bank from their investment of such funds ought to cover the expense of the account.

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE 586-6440
JUNEAU, ALASKA 99801

FEB 19 PM 8 50

L1089 LYA325(2339)(1-0393E0850)PD 02/19/74 2337

ICS IPMSAAH WSH

08112 NL WASHINGTON DC 74 02-19 0102P EDT

PMS LEE COFFMAN

ALASKA FEDERAL SAVINGS & LOAN ASSN

301 NORTH FRANKLIN STREET

JUNEAU ALASKA 99801

CONGRESS CONSIDERED CLOSING COSTS LEGISLATION LAST SEVERAL YEARS. NO ACTION TAKEN. HOUSE HOUSING SUBCOMMITTEE HEARINGS DECEMBER AND JANUARY ON H.R. 11460: REQUIRE FINANCIAL INSTITUTIONS TO PAY INTEREST ON ESCROW ACCOUNTS. U.S. LEAGUE TESTIFIED IN OPPOSITION. CONCERN FOR ECONOMIC FEASIBILITY AND NEGATIVE IMPACT ON LOCAL TAXING UNITS. NOT MUCH INTEREST IN CONGRESS AT THIS TIME. RECENT GAO STUDY ON ESCROW ACCOUNT INTEREST INCONCLUSIVE. HOUSING SUBCOMMITTEE CONSIDERS BILL LOW PRIORITY. NO ACTION TO DATE.

JOHN RASMUS

US LEAGUE OF SAVINGS ASSN

Alaska State Legislature

House

JUNEAU ALASKA

February 10, 1976

MEMORANDUM

TO: Bob Bradley

FROM: Terry Berman
Administrative Assistant

SUBJECT: Escrow Accounts, HB 678

Mortgage reserve, or "escrow" accounts were established as a response to the financial problems of the thirties when banks suffered losses as mortgage holders failed to meet tax payments. As a condition of borrowing, borrowers were required to make an additional payment with their monthly mortgage payment to pay for taxes and hazard insurance. This provided the banks with protection against foreclosure or losses due to damage.

Each month, the homeowner prepays 1/12 of the estimated annual taxes and insurance premiums. In Anchorage, municipal tax payments are made only twice a year. Thus, in the homeowner's eyes, his money lays idle much of the year. Of course, the money does not remain idle, but is invested by the lenders. In most cases, the homeowner receives no interest nor benefits, other than not having to take care of his tax and insurance payments himself.

House Bill 678 requires that an escrow account be treated as a savings account, with the borrower receiving interest at a half percent less than the prevailing rate of return from a U. S. Treasury Department Treasury Bill, which is how banks often invest funds from escrow accounts.

Two lending institutions in Alaska do pay interest on escrow accounts. Home Federal Savings and Loan pays 5¼ on all escrow accounts, with the average gain of $30 per year to the homeowner. Alaska Mutual Savings pays 3½ on balances to $700 and 5¼ when the balance exceeds $700. If interest were paid on escrow accounts at the current rate for savings accounts, a homeowner might receive $1,000 over the period of a thirty year mortgage. In fact, if all excrow accounts in the United States received 5% annual interest, American homeowners would gain $470 million dollars per year.

Requiring escrow to be paid into non-interest bearing accounts which are then invested may actually be a violation of the Federal Truth In Lending Law. Banks are required to state the true rate of interest, but with this interest-free loan they receive from borrowers, the actual interest rate to borrowers is higher than the stated rate.

The argument that banks give that the expense of escrow accounts justifies the non-payment of the interest is questionable. The difference between the rate of interest paid to homeowners and that received by the bank from their investment of such funds ought to cover the expense of the account.

HB 706

"An Act making a special appropriation to the Department of Law; and providing for an effective date."

COMMITTEE REPORT

2/10/76 HOUSE FINANCE

Mr. Speaker: Date 2/12/76

The Committee on COMMERCE has had HB 706 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

(X) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

TO: APC DATE: 2/10

(~~SENATE~~ HOUSE) BILL 705 and 706

RE: powers of APC

Check One:

1. TOP PRIORITY - in favor of _____
2. FAVOR - in favor of, but not top priority _____
3. OK - no definite stand _____
4. NOT IN FAVOR _____
5. TOP PRIORITY - "Strongly Opposed" X
6. BILL DOES NOT PERTAIN TO DIVISION _____
7. Bill does not directly pertain to division, but I am interested in its progress. Keep me informed. _____

COMMENTS: (Justification must be stated for #1 - #6 above. Continue on another page if needed).

While HB Nos. 705 and 706 must be considered together when weighing the ultimate effect they could have on the state, it is perhaps more helpful if each piece of legislation were discussed separately.

First, HB 705 is considered by the Commission to be a very real threat to the overall concept of having one governmental body (The Alaska Pipeline Commission) responsible for and instrumental in protecting the state's interests in matters of oil and gas pipeline regulation. This legislative intent in enacting the Alaska Pipeline Commission Act (Ch. 139 SLA 1972), which is supported by considerable authoritative testimony on the subject, is readily detected when one considers the broad latitude the legislature gave the Commission for dealing with matters of oil and gas pipeline regulation. Besides being vested with the general responsibility of regulating pipelines, the Commission is also directed to promote and oversee the development of an oil and gas pipeline transportation

(Continued)

Writer's Signature: Hank Nelson
Writer's Title: Chairman

(DEADLINE 24 hours)

(Note: Please return to Information Officer/Leg. Asst. Office of the Commissioner)

system in the state (see AS 42.06.010 and 42.06.020). Further, and more specifically, the Act claims very extensive jurisdiction for the Commission and also vests in the Commission wide authority to pass upon the validity of tariffs filed by pipeline carriers. These aspects of the Alaska Pipeline Commission Act reveal the obvious intent to keep the various segments of oil and gas pipeline regulation contained in one governmental unit and not distributed among many.

In addition, one can observe from the statutory provisions relating to the makeup of the Commission (AS 42.06.060) and the authority and tools it is given to carry out its duties (AS 42.06.120) that the Commission is presently structured in such a way as to maintain continuity and to gain the knowledge and expertise necessary to function properly in the public interest.

With this background in mind, it is apparent to the Commission that splitting up of functions between the Commission and the Department of Law would only add confusion, interfere with the Commission's policy making functions, make pipeline regulation (including promotion of them) subject to political pressure and manipulation from the executive branch, and weaken the state's credibility and posture before the federal courts and regulatory bodies.

Funds appropriated through HB 706 would be needlessly expended, since much of what is sought through the appropriation has already been accomplished by the Commission, including contracts for the services indicated.

In conclusion, the Commission cannot comprehend the net benefits to be gained by the state in splitting up its legislatively mandated functions with the Department of Law. Under AS 42.06.110, the Department of Law is the Commission's counsel in legal matters arising from the discharge of the Commission's duties and in actions to which it is a party. This is consistent with the process employed by the ATC and PUC.

HB 707

"An Act appropriating to the Office of the Governor for preliminary planning for an international conference of oil and gas development impacted; and providing for an effective date."

COMMITTEE REPORT

2/10/76 HOUSE FINANCE

Mr. Speaker: Date 2/27/76

The Committee on COMMERCE has had HB 707 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

L. S. Scalley, Dolores, Joe McKinnon

Lee Walker, [illegible], Freeman

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends: L. S. Scalley

_____ recommends:

_____ recommends:

_____ recommends:

L. S. Scalley Chairman

THE LEGISLATURE OF THE STATE OF ALASKA
FISCAL NOTE
Second Session - Ninth Legislature

I. REQUEST
Bill No. HB 707
Title: Appropriation for Preliminary Planning for Int'l Conference on Oil and Gas
Requested by: Fischer Date: 2/10/76
Return Date Requested:
Agency: Office of the Governor Program: Policy Development & Planning

II. FISCAL DETAIL
Budget Request Unit(s) Affected:

A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100	PERSONAL SERVICES	0	0				
200	TRAVEL	0	0				
300	CONTRACTUAL	10.0	40.0				
400	COMMODITIES	0	0				
500	EQUIPMENT	0	0				
600	LAND & STRUCTURES	0	0				
700	GRANTS, CLAIMS, ETC.	0	0				
	TOTAL	10.0	40.0				

B. FUNDING: (Thousands of dollars)

GENERAL FUND	10.0	40.0				
FEDERAL FUNDS	0	0				
OTHER	0	0				

C. POSITIONS:

PERMANENT/TEMPORARY	/	/	/	/	/	/
MAN MONTHS (P./T.)	/	/	/	/	/	/

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Assumptions: Appropriation available by 1 June 1976. Start-up costs only in FY 76. Conference to be held in FY77. All expenditures completed in FY77. All overhead and in-kind costs incurred by Division to be absorbed by existing budgets; entire appropriation as per HB707 to be available for private or non-profit group on 75:25 matching basis.

Program Summary: As per HB707. The GF monies appropriated to the Division will be used to contract for conference planning and fund-raising. Contractor to match GF on 75:25 basis.

IV. ATTACHMENTS

None

V. DATE: February 17, 1976 PREPARED BY: Robert Bruce

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

HB 730

"An Act providing for a tourism economic impact study and authorizing a data collection system; and providing for an effective date."

COMMITTEE REPORT

HOUSE

2/11/76 FINANCE

Mr. Speaker: Date 3/8/76

The Committee on COMMERCE has had HB 730 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

R. Kelly — Do Pass — Jo McKinnon

H Fowler — Do Pass —

Robertson — — Turnbull

— — —

Members NOT concurring in the Majority report:

L. S. Sedberry - No Rec. recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

L. S. Sedberry Chairman

ALASKA VISITORS ASSOCIATION
P. O. Box 2208 • Anchorage, Alaska 99510 (907) 279-4116

AVA

Tourism
is everybody's
business.

Copy for Committee

March 2, 1976

The Honorable Bob Bradley
Alaska State House of Representatives
Pouch V, State Capitol Bldg.
Juneau, AK 99811

Dear Representative Bradley:

The Alaska visitor and recreational industry is big . . . but we don't know how big. The Alaskan recreational and pleasure traveler will probably spend $100 million in Alaska during the 1976 calendar year . . . but we're not sure of that. We believe that there will be in excess of 250,000 non-Alaskan resident recreational visitors in our State in 1976 spending that volume of money . . . but we're not sure of that either. We believe the Alaskan State Government, through the Marine Highway System's revenues, liquor taxes, airport revenues and similar items, receives as direct income from these travelers $8 to $12 million . . . but we're not certain of that.

In this time and age, and with the complexities and challenges we are confronted with, it is imperative that not only the private sector, but government officials, planners, economists, and all concerned with a healthy Alaskan economy, be better informed and provided with more accurate information on what the Alaskan tourism and recreational traffic means to us. Most of this impact is good -- but we would be naive to think there are not some negative effects. However, we -- you and I -- do not have the information we need to draft a balance sheet.

Bankers need this information to make loans. Air carriers and hotels need it to consider improvements in scheduling and increasing their capacity. Local and state government officials need it to consider the allocation of their resources. Communities and individual businesses need it to better determine their course of action in the months and years to come. This information can only be obtained with the passage of House Bills 730 and 731, recently introduced into the Alaska State Legislature. They provide the necessary authority and funding for designing and implementing an Alaskan tourism economic impact and marketing research program.

As the President of the Alaska Visitors Association, I solicit and encourage your support of these bills. We need to inventory our great mineral resources. We need to know how many trees and fish we have available today so we can plan for tomorrow. We also need to know the volume and nature of our Alaskan visitor traffic.

Thank you for your consideration.

Sincerely,

Charles B. West

Charles B. West
President

CBW:bf

MT. McKINLEY
ALASKA GLACIER TOURS

720 West Fifth Avenue ● Royal Inn Hotel ● Anchorage, Alaska 99501 ● 907-274-4721

March 2, 1976

Rep. Robert Bradley
Commerce Committee
HOUSE OF REPRESENTATIVES
State House
Pouch V
Juneau, Alaska 99811

RE: TOURISM IMPACT STUDY
HB 730 & 731

Dear Mr. Bradley,

This is to advise you that we support the suggested plan to gather data from within the Tourist Industry for the purpose of establishing facts about our business for public release. Only through a cooperative effort can the necessary statistics be made available. Each of us in the industry has our own records. But, in order to factually evaluate the whole tourism market, authority must be granted to a gathering organization to require private reporting. We commit ourselves to 100% cooperation with this plan and urge enactment.

And, we urge appropriation of necessary funds to establish a credible data collection system from the above action. The people of Alaska as well as the Tourist Industry deserves to have the facts. Unfortunately, we sometimes find ourselves maligned by misconceptions, misunderstandings and bias. By proper economic analysis, we all will gain perspective toward our way of life and environment.

These actions are long overdue in Alaska. Our State's one most clean and renewable industry will forever bring extra dollars to our communities. These dollars mean extra jobs for Alaskans and extra services for Alaskans themselves to enjoy. We all know these generalities. What we don't have are specifics. Your support of these actions will assure a healthy future within tourism's economic contribution to Alaska.

Many thanks and with best wishes for your support.

Cordially,

Robert M. Scott
President
MT. McKINLEY ALASKA GLACIER TOURS, INC.

ALASKANS FOR TRAVEL, INC.
P. O. Box 1479 • Anchorage, Alaska 99510 • (907) 276-7718

copy for committee

March 4, 1976

The Honorable Bob Bradley
Alaska State House of Representatives
Pouch V, State Capitol Building
Juneau, Alaska 99801

Dear Representative Bradley:

Representative Duncan from Juneau recently introduced into the House of the Alaska State Legislature, House Bills 730 and 731. This legislation was referred to the House Commerce and Finance Committees. At the date of this letter, I believe the two bills are scheduled for consideration in the House Commerce Committee on Monday, March 8, 1976.

I write to you today on these two bills for the purpose of informing you that this particular legislation is, in the opinion of Alaskans for Travel, the single most important special authorization and funding legislation that deals with the Alaska visitor industry.

This particular bill seeks to accomplish the establishment of a data collection system and to conduct that survey for the first time. Research in any area of endeavor is crucial for good planning and development. Research and data is important for anyone who wishes to analyze the worth and value of an activity. Research and data is valuable on any subject that has significant impact upon our economy and our lives.

The Alaska travel business, in its various forms and facets, is a major economic factor of our lives. The problem is that we do not know how big it is, where it is concentrated, where it comes from, or who benefits and how much. Certainly the state is a major recipient of funds expended by the traveling public, particularly the recreational traveling public. But you, as a legislator, do not know how much.

This particular goal of acquiring information and data has been the number one goal of the Alaska visitor industry for three years. I would suggest to you that it is most appropriate and imperative that these funds and this program be initiated promptly if we are to properly position Alaskan tourism and recreational travel into the composite picture of the Alaskan economic social structure.

I ask your active support of this legislation. Will you use your influence, as one of forty members of the Alaska State House of Representatives, to assure its prompt movement through the Committees and vote affirmatively for the bills when they reach the floor of the House. Your positive action would be appreciated and would be of benefit to you, as a state legislator, and to many thousands of your constituents.

Sincerely,

Ray W Guthrie

Mr. Ray Guthrie
AFT Chairman

HB 754

"An Act relating to charges by public utilities."

COMMITTEE REPORT

2/12/76

HOUSE

Mr. Speaker: Date 3/19/76

The Committee on COMMERCE has had HB 754 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

(X) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

L. D. Bradley

Joe McKinney

Members NOT concurring in the Majority report:

_____ recommends: no rec

_____ recommends: No Rec

_____ recommends: " "

_____ recommends:

_____ recommends:

L. D. Bradley Chairman

Alaska Gas and Service Company

GENERAL OFFICES LOCATED AT 3000 SPENARD ROAD
P. O. BOX 6288 ANCHORAGE, ALASKA 99502 / PHONE (907) 277-5551
TELEX 25-187

March 17, 1976

Representative Bob Bradley
Chairman of the House Commerce Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Bradley:

We have not attended any hearings on HB754 and do not know its intended effect. We do see many objections to its being enacted. We believe the Bill is unenforceable: a utility which is exempt from regulation can hardly be regulated as to its "services which do not recur on a regular basis." Such services are in fact probably not "utility service" and probably are not covered by tariff.

In the case of Anchorage Natural Gas (which is fully regulated), non-recurring services might include investigation of gas leaks or gas equipment malfunction: repair of utility or non-utility facilities; or installation of utility or non-utility facilities, and other activity such as bad check charges, costs for collections, etc. Some of this work is done without charge.

Our customer service department does most of the work involving non-recurring charges. In 1975 24,479 individual "orders" were worked, requiring a total of 23,554 manhours, of which only 4,199 manhours were treated as "chargeable time." Similarly, our customer appliance installation department completed 1,183 individual "orders," essentially all as "chargeable time." Our distribution ("street") department completed 452 individual orders to repair gas mains and services broken by "others", of which charges were made on 290 incidents, in addition to various other work done at customer request.

Some of our appliance installation work is done at a predetermined, fixed price, as is some of the service work. Sometimes service work and distribution work are done on a "time and materials" basis, or a "minimum charge" basis. It is effectively impossible to standardize such charges or to assure "equitable" treatment as to charges versus cost because of the great disparity of time required for one call versus another, over our 600-mile system of gas mains. A degree of discretion is always necessary for both the servicemen on the job and for their supervisors. No efforts is made to "cost" the majority of calls by the service department, because either no charge or a minimum charge is made for such work.

In view of the foregoing, it simply would not be practicable for us to comply with the provisions of HB754 as it was introduced. We believe our customers are well pleased with our service work and our policy and charging when and how is deemed appropriate by the workmen involved, and their supervisors. If enforcement of HB754

Alaska Gas and Service Company

GENERAL OFFICES LOCATED AT 3000 SPENARD ROAD
P.O. BOX 6288 ANCHORAGE, ALASKA 99502 / PHONE (907) 277-5551
TELEX 25-187

would require us to perform cost analysis on each of the 25,000 "orders" mentioned above, and to limit our charge to a particular percentage of that cost, the administrative burden would be intolerable. We might be forced to discontinue most of such work and refer our customers to contractors or appliance stores. Although not subject to the proposed law, we doubt if the contractors and appliance stores would want this work because it offers low profitability, if any. We have had to provide the service because it was not otherwise available to our customers but is essential to the safety and success of our utility operations.

We believe that our current program and policy for handling these non-recurring services and charges is well accepted by our customers and that any legislative effort to enforce a "regulated" operation in this area could not work as well, if at all, because of the need for on-the-spot discretion and judgment.

We ask that HB754 not be enacted to apply to natural gas utilities.

Very truly yours,

Dale Teel
President

DT:dh

cc: Representative Mike Bradner
Representative Fred Brown
Representative William Parker

HB 776

FPDI 0006 11.04 SP04 0038 11.05 03/29/76

THE MESSAGE READS AS FOLLOWS:

CHAIRMAN
HOUSE COMMERCE COMMITTEE
JUNEAU,ALASKA

DEAR SIR:

PLEASE ACCEPT MY PERSONAL TESTIMONY AND THAT OF THE FAIRBANKS POLICE DEPARTM
IN THIS FORM IN REFERENCE TO HB 776 NOW BEFORE YOU:

"FROM OUR EXERIENCE DURING THE YEARS OF 1974 AND 1975, PARTICULA
THE SUMMER MONTHS, IT WOULD HAVE BEEN HIGHLY BENEFICIAL TO THE
EFFORTS OF LAW ENFORCEMENT IN THE CITY OF FAIRBANKS TO HAVE ALL
RETAIL LIQUOR ESTABLISHMENTS CLOSE FOR BUSINESS AT THE 2:00AM
HOUR. IT IS OUR FEELING THAT CIVIL DISTURBANCES THAT APPROCHED
EMERGENCY LEVELS COULD HAVE BEEN MINIMIZED OR LARGELY AVERTED H
THE BARS CLOSED THEIR DOORS PRIOR TO THE 5:00AM HOUR NOW IN EFF

IT IS ALSO STRONGLY RECOMMENDED THAT PACKAGE LIQUOR STORES HAVE
CLOSING TIME OF ONE (1) HOUR PRIOR TO WHATEVER TIME BAR CLOSING
OCCURS."

DUE TO LACK OF NOTIFICATION, THIS MEANS HAS BEEN TAKEN TO COMMUNICATE.
THANK YOU FOR THIS CONSIDERATION.

RESECTFULLY SUBMITTED,

RICHARD R. WOLFE
CHIEF OF POLICE
FAIRBANKS POLICE DEPARTMENT
FAIRBANKS, ALASKA

PLEASE ALSO SEE IF YOU MIGHT BE ABLE TO GET A COPY TO REPRESENATIVE GLENN
HACKNEY, HOUSE OF REPRESENATIVES.

LET ME KNOW IS YOU HAVE BEEN ABLE TO GET HIM A COPY.
THANKS
SHEILA FOSTER
FPDI/FOSTER/WOLFE

3-25-76

CITY OF NOME

POLICE DEPARTMENT
BOX 281
NOME, ALASKA 99762
(907) 443-2341

March 23, 1976

Representative Lawrence T, Davis.
Alaska State Legislature
Pouch V
Juneau. Alaska 99801

Dear Larry:

In reference to our conversation on Monday, March 23, 1976 regarding proposed new closing hours for liquor establishments throughout the State:

My personal feelings are that the State closing hours should remain as they are at the present time, This gives option to local citizens as to whether or not they wish shorter hours.

As you know, Nome's closing hours are 2:00 A.M. each morning except for Saturday and Sunday mornings when they close at 5:00 a.m.

This works out perfect for us, as policemen, because for five work nights each week everything quiets down at or before 2:00 a.m.. Week end nights are a different story. All the rowdies, the trouble makers and hard drinkers are out, and at 2:00 a.m. they are not going to quit and go home - they go someplace else and continue.

By keeping the bars open until 5:00 a.m. on week ends, we at least know where these people are, and the only hazards they cause are to themselves and possibly the police at times.

Sincerely,

Cecil C. Johnson

Cecil Johnson
Chief of Police
Nome, Alaska

LAW OFFICES OF

GEORGE A. DICKSON

880 H STREET, SUITE 200

ANCHORAGE, ALASKA 99501

TELEPHONE

276-2272

ASSOCIATES:
M. P. EVANS
HOMER L. BURRELL
BEN J. ESCH

March 24, 1976

Fell - For committee

Representative Bob Bradley
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Bob:

I am aware that you are on the Commerce Committee which is currently considering House Bill 776. I thought that you might be interested in a memorandum I recently submitted to the Anchorage Assembly regarding alcohol, a copy of which I enclose.

There are some strong statistics available from studies done from Australia, Toronto, Canada and the United Kingdom concerning the socially beneficial effects on closely regulating the hours during which alcoholic beverages could be sold. There is a very definite correlation between accessibility of alcohol and use and a close correlation between use of alcohol and the number of drunk driving cases and alcohol related crimes. You must understand accessibility does not affect the "alcoholic", but does clearly affect the alcohol abuser.

I trust that you will support Representative Hackney's proposal as set forth in House bill 776.

Best Regards,

George A. Dickson

Enclosure
GAD:ce

cc: Representative Glenn Hackney

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AIM

Meeting Date: February 9, 1976

From: Assemblyman Dickson

Subject: Alcohol

Alcohol is Alaska's Number 1 problem. Alcohol appears either as a cause or effect in deaths, illness, divorce, crime, failed businesses, unemployment, mental illness, child abuse, welfare, juvenile delinquency and suicide.

Statistics

The national consumption of distilled spirits (not beer) sold in the United States is 1.97 gallons per person per year. Alaskans drink 3.01 gallons per person per year -- 50% more than the national average. Rated nationally, Alaska is fifth. But the states that precede Alaska for the dubious first-place honors, are District of Columbia, Nevada, New Hampshire and Vermont. Nevada, New Hampshire and Vermont are all low-population states with high tourism, which accounts for their high per capita consumption and the statistic source points out that the District of Columbia's high per capita consumption reflected heavy purchases by out-of-state customers. So, taking these factors into consideration, Alaska may very well be first in the nation on per capita consumption of distilled spirits by residents.

It is estimated that one out of every ten adult Alaskans is an alcoholic - about 16,000 individuals. The World Health Organization defines an alcoholic as "one who has severe changes in health, personality, finances, family or social life, due to drinking." Of the 10% of adult Alaskans who are alcoholics, it is estimated that only 3 - 5% of this group are what would be called visible alcoholics. These "tip-of-the iceberg" alcoholics are the ones you see on 4th Avenue, i.e. the ones that the public generally classifies as the "wino".

Thus for every Fourth Avenue drunk you see in Anchorage, there are between 19 and 32 closet alcoholics. There are approximately 5-1/2 drug addicts for every 100 alcoholics.

Nationwide it has been estimated that the economic costs of alcohol are as follows:

1.	Loss of Production	9.35 billion
2.	Motor vehicle accidents	6.44 billion*
3.	Health and medical	8.29 billion
4.	Alcohol programs	.64 billion
5.	Criminal justice system	.51 billion
6.	Social welfare service	.14 billion
	TOTAL	25.37 billion

* I ran across another statistic that estimated the cost to be 15 billion.

Delving into more specific statistics, we find the following:

1. Deaths - In Alaska, 14% of all deaths are closely related to alcohol. Another 11% have alcohol as a contributing factor. In Anchorage during a 17-month period, 64 deaths were alcohol related. Forty were providers, leaving a spouse with an average of two children. Many of the survivors went on public welfare. Of a total of 267 coroner's cases investigated in the Anchorage District during a 17-month period from 1971 to 1972, 43% of these deaths were directly due to alcohol or alcohol related. In early 1975 during four months in an area with several small villages in Southeast Alaska, 5 family providers died of alcohol-related deaths. The survivors totaled 28 dependents. The cost of maintaining these individuals, not including any medical care, is $44,160.00 annually.

2. Drunks and Automobiles - In Anchorage, 81% of traffic fatalities are alcohol related. Between 7:00 p.m. and 3:00 a.m. you will meet 9 drunken drivers on the road during each hour of driving. Seventy-five per cent of all Alaskan traffic fatalities are alcohol related in contrast to about 50% in the South 48. In Anchorage the rate was 81% over a one-year period, and in Fairbanks during a one year period it was 100%. In Anchorage from 1970 to 1974, we had a 58% increase in drunk driving arrests, while at the same time we only had a 44% increase in registered vehicles. The situation is growing worse.

A 1975 study of drunken driving reached some interesting conclusions:

> "The results of our study explain to some extent why laws, punishment (including imprisonment), and appeals to reason and intelligence have not effectively deterred persons under the influence of alcohol from operating motor vehicles. One of the obvious reasons is that these methods fail to address themselves to the large proportion of such offenders who have serious levels of alcohol impairment. These are persons who have drinking patterns that almost certainly include an impulsive need to drink and that also possibly incorporate some degree of self-destructive behavior. This conclusion would suggest that punishment alone would serve to satisfy some of the very reasons for the alcohol dependency and would be unlikely to alter behavior beneficially. It is also important to note that this particular group of persons, although admitting to a high proportion of pathological drinking behavior, are poorly motivated to seek treatment. Less than 2 percent of the offenders in our study reported ever having been in any treatment program related to drinking. More than 90 percent did not consider their drinking behavior to be a problem before their arrest.
>
> It is of more than academic interest to consider the impact of extremely strong sanctions against drinking and driving. Several European countries, especially Great Britian and Scandinavia, introduced such sanctions about 10 years ago, lowering the legal blood alcohol level to 0.05 percent and making loss of the driving license and imprisonment mandatory for anyone convicted of drunken driving. Although there was an initial reduction in alcohol-related accidents, the rates of such accidents have gradually begun to rise again. Alcohol is still a significant factor in the serious overall problem of motor vehicle accidents in these countries.
>
> In the United States, judges and juries are reluctant to return convictions in cases involving intoxicated drivers, apparently identifying more with the driver's "right to drink" and "right to drive" than with the potential for disaster. Even when convictions are returned, license suspension or revocation has little or no impact in preventing most people from drinking and driving."

C R I M E

Although there is a dearth in Alaska of reliable statistics concerning Alcoholism one of the outstanding exceptions to this rule is a study done by the Division of Corrections in 1975 concerning alcohol and crime. In interpreting any statistics which relate to alcohol and crime, one must first note that in 1972 the Uniform Alcoholism and Intoxication Treatment Act passed by the Alaska State Legislature decriminalized "Drunk in Public". Prior to 1972 "Drunk in Public" was the most frequent charge on the Police blotters, constituting 36% of the total. As an aside, it should be noted that the passage of the Uniform Alcoholism & Intoxication Treatment Act of 1972 emptied the Alaskan jails and filled every available treatment center. Arrest for drunkenness fell from over 4,000 annually to zero.

The Division of Corrections study dealt with 103 prisoners in the Eagle River Facility who were serving sentences of 6 months or more. 52% had committed violent crimes and 84% reported that they had been drinking at the time of their most recent offense. 50% of those prisoners indicated that they had or have had serious drinking problems.

Between July, 1974 and April, 1975, all the cases at the Parole and Probation Board were reviewed - 84% of the inmates appearing before the Parole Board had alcohol abuse as a salient factor in the offense. Alcohol abuse was a

factor in 69% of the homicides. Alcohol was a factor in 57% of the assaults with a deadly weapon, robbery, and shooting with intent to kill. Alcohol was a factor in 67% of rapes, and lewd and lascivious acts. Alcohol was a factor in 52.5% of Probation and Parole violations.

In the late 1960s a study indicated that 60% of all the people in the State Jail were there for "alcohol related" offenses. After the implementation of the Uniform Act in the early 1970s, a study in 1974 indicated that 41% of all those serving jail terms were still for "alcohol related" offenses, even without public drunks being charged. Note that the term "alcohol related" refers to charges directly involved with alcohol use, but does not include other offenses while drinking. Thus, alcohol related offenses are such crimes as disorderly conduct, drunk on a roadway, or driving while intoxicated.

The Police Department's reports until the decriminalization of "Drunk in Public" reflects 90% of their resources were spent in handling drunks. This is now a responsibility assigned under the Uniform Act to the Department of Health and Social Services. In the case of Anchorage, the City was able to shut down its honor farm operation located at International Airport Road and Seward. It is certainly arguable that although we are spending more money for the treatment of

alcoholism than we ever did before, we are also spending less money for police services and the cost of incarceration than we were before.

MENTAL HEALTH

Of U.S. Mental Hospital admissions in 1972, alcoholics made up 38% among males aged 18-44 and 74% of the males 44-54 years of age.

H E A L T H

In 1971, 4986 patients with alcoholic symptoms were admitted to Alaskan hospitals. Recent research shows that alcoholic mothers damn their children to death, mental retardation, or stunted growth.

E M P L O Y M E N T

As noted above, the 4th Avenue drunk makes up the visible problem but accounts for only 5% of the alcoholics in the community. Most persons with alcohol problems are employed and many alcohol case workers say that it is the job which is the last asset of the alcoholic to go. The alcoholic

needs the job to buy the booze. Because the alcoholic is motivated to hold on to his job, early identification of an alcoholic employee and early treatment of this employee offers society one of the best opportunities to achieve a reduction in the alcohol population. The employer is in a nearly ideal position to pressure an employee into seeking aid for drinking problems. Educated estimates are that as many as 5% of the employed population had drinking problems. General Motors instigated a program to deal with alcoholic employees and reported recovery rates ranging up to 60% of those referred in the first 22 months after introducing an alcohol program. General Motors further reported a decrease of lost man hours of about 50%, a decrease in sickness and accidents of 30%, a decrease in leave of absence of 50% and a decrease in job-related accidents of 83%.

The National Council of Alcoholism reports that one in every 13 employees in the United States is an alcoholic. The highest incidence of alcoholism appears to be in pressure jobs, people in problem related careers.

Losses to industry because of alcoholism were computed at $6 billion per year in 1971.

Jim Spaulding of the Anchorage Alcohol Treatment Center at Port Alsworth stated that most of the patients did

not need vocational counselling to obtain jobs. He added that alcoholics almost always have tremendous skills. In fact, if one generalization is true of alcoholics, he said, it is that they drink because they cannot meet the high standards of perfection they set for themselves.

Y O U T H

One out of fifteen high school students in Alaska is an alcoholic.

Five years ago, the average age of those in detoxification centers was 39 years old - today it is 32 years old.

ALCOHOLISM AGENCIES

There are 46 alcoholism treatment services in addition to AA groups listed with the Office of Alcoholism, 25 of which receive state funding.

In 1971 almost 21,000 requests were serviced to agencies in Alaska as a result of alcohol problems.

At any given time there is an average of 150 persons receiving treatment at the alcoholism rehabilitation unit of the Health Department and between 120 and 130 at in-patient or residential facilities. In addition, average

monthly attendance at group sessions in the Health Department is 600. This does not include the many AA meetings in Anchorage nor the heavy traffic at CME walk-in Center at 6th and F, which may be 200 each evening.

2/9/76

ANCHORAGE DEPARTMENT OF HEALTH & ENVIRONMENTAL PROTECTION

ANALYSIS OF ALCOHOLISM FUNDS SPENT

IN THE ANCHORAGE AREA, 1975-1976 - ALL SECTIONS

		SOURCE			
	TOTAL	MUNICIPAL	STATE	PRIVATE	FEDERAL
Municipal - Outpatient & Mgmt.	283,990	283,990			
Anchorage Native Program For Alcohol (Taheta)	54,000		27,000	27,000	
Anch. Native Pro. (7/1-9/30)	15,000		6,000	9,000	
Salvation Army	30,787		20,000	10,787	
Anchorage Council On Alcoholism	71,924		66,174	5,750	
CME Walk-In Center	251,247		157,017	59,130	35,100
Studio Club	117,990		80,890	37,100	
SDC (Honor Farm)	632,131		402,396	46,325	183,410
Anchorage Comm. Hospital	14,400				14,000
Court Program-DWI (Nat'l. Coun.)	34,000				34,000
Ak. Labor & Mgmt Emp. Afairs	200,000				200,000 (State wide)
Estimated: Phoenix House	50,000			50,000	
	1,755,469	283,990	759,477	245,092	466,910

Note 1: Considerable funds are being spent on alcoholism in the private sector. The hospitals, the psychiatrist, and the private physician all treat alcohol related problems (for which there are no reports).

Note 2: CINA & ANB have some effort invested. However, the amounts cannot be broken out and the effort has been small (estimate 1/2 to 1/4 man year).

Note 3: SDC includes the Re-Ed. Unit at ARI - both receive a fair number of referrals from other areas of the State.

Note 4: Approximately $265,000 of the Municipal figure is counted as the required local match for the States $759,477.

EARNINGS AND TAXES OF THE LIQUOR INDUSTRY

The earnings of the liquor industry in Alaska have increased 30.8 million in 1971 to 33.6 million in 1974 and finally to 41.2 million in 1975.

License fees total $80,000.00 in 1971 and $81,850.00 in 1975.

Excise taxes paid were 4.? million in 1971, 5.7 million in 1974, and 6.6 million in 1975.

DISCUSSION

I shall divide this discussion into the following:

1. Treatment and rehabilitation.
2. Prevention and education (there is, of necessity, some overlap with No. 1).
3. The alcoholic as an anti-social person.
4. The distribution of alcohol.

TREATMENT AND REHABILITATION

What at first appears to be a confusing and overlapping system of treatment and rehabilitation of alcoholics in the Anchorage area on closer inspection resolves itself into some semblence of order. I have read evaluation reports on each of the programs and have personally visited about half of the programs. I think that, all in all, they are doing a good job. Those people who work in the programs are doing jobs that I wouldn't

do for ten minutes. To enter the CME Walk In Center on Saturday night is like walking into a scene from Dante's Inferno. Those who work there are saints and are full of charity and sweetness and are certainly performing a service to humanity and my feeling is that as long as they are willing to perform those services at the kind of minimum wages they serve for then let them do it. It is certainly a labor of charity, not an act for economic remuneration.

One of the things that should be recognized, though, is that the rehabilitation centers are oftentimes dealing with recidivous drunks. For example, the CME Walk In Center treats between 200 and 300 walk-in clients every 24 hours. During the month of October, 39 individuals out of 8,972 (.43%) seen were initial contacts. This indicated an enormous and excessive recidivism rate. It is apparent that certain clients are returning two and three times within a 24 hour period. During this time only 48 individuals were referred to the Social Development Center (AATC) and 18 individuals referred to the hospital. Of those that were referred to the latter institutions, many of them simply went through a detoxification procedure and immediately went back to the streets. A portion went into the rehabilitation program and a few may have succeeded in being successfully rehabilitated. However, one never knows whether they were successfully rehabilitated or not because follow-up procedures are very poor.

I talked this matter over with a man who has been a dry alcoholic for many years and who is a member of AA and who is also involved in various aspects of the programs in Anchorage and familiar with all of them, and he wrote me the following letter:

> "In regards to local alcoholism programs where treatment and rehabilitation are involved, it has been my observation that they are not doing the job.
>
> First of all, there is little or no distinction between the village persons who arrive in Anchorage for a visit (and promptly get drunk). The 4th Avenue bars are also meeting places and very much a form of local fellowship away from home. These people are then picked up by the police (who have no other place to take them) and are taken to the De-Toxification Center at Pt. Woronzof where they are dried out, and then released. Since the non-incarceration act, the police have had no choice but to use the De-toxification facility as a dumping grounds for alco-abusers. This service, of course, may be needed, but it has nothing to do with the rehabilitation of alcoholic persons. In fact, it is interfering with what should be a distinct and separate function, that of offering an open course of opportunity for those persons who wish, or have a desire to do something for themselves. Right now, all the alcohol abusers and the alcoholics are thrown together, which is not conducive to good program functioning for the rehabilitation of alcoholics.
>
> The facility at Pt. Woronzof, both the old and new facility (which, by the way, the new building should be funded and completed immediately) should serve as a community resource for rehabilitative programs and the re-entry of the alcoholic person into the community as a productive citizen.
>
> Unfortunately, guidelines have not been instituted wherein the alcoholic person is given 2 or 3 opportunities at a treatment center to rehabilitate themselves; but if they continue to drink up their opportunities, they should be jailed on each occasion. Many of us who have gone through the process of rehabilitation know that to coddle or sympathize with alcoholics, may prolong their rehabilitation.

> Therefore, let us return to the system of punishment for the alcoholic person if they fail to take advantage of the local and state funded alcoholism programs, which have offered rehabilitative support to them. Give the power of arrest back to the police departments with a farm system for those persons unwilling to do something for themselves, and let the treatment centers do the job for which they were originally created."

I tend to agree with this letter. I think it makes some sanse and there seems to be a concensus in the alcoholic community that programs for rehabilitation should be supplemented with programs of arrest and detention for those alcoholics who are not susceptible to rehabilitative treatment. The arrest and detention would not necessarily be considered in the normal criminal context.

PREVENTION AND EDUCATION

At the present time only a very small amount of the money poured into alcohol programs is being used for alcohol education programs. The bush towns of Barrow and Ft. Yukon recently established a program in the schools from grade school onwards through high school. The curriculum outlined for such a program has been prepared by Mr. Keating of the National Council on Alcoholism. The occasional auditorium lecture that children in Anchorage schools are now receiving is simply not enough.

Dr. Colyar stated to me in a memorandum, "Earlier prevention must be applied to youthful populations, through efforts to educate school age children and youth in the nature

and effects of alcohol. We must also take measures to change attitudes of the community toward abuses of alcohol and to support proper establishment and enforcement of the laws regarding distribution and misuse of alcohol."

Edwin J. Bew, Jr., editor of the National Council of Alcoholism News, Alaska Region, stated, "It is my strong hope that, in the years to come, we will all come to realize and be able to influence opinion makers in the community at large that there would never be enough money to treat all alcoholics at public expense. The only way that real inroads can be made is through the spending of funds not only in direct treatment, where it is still desperately needed throughout the state, but also in efforts towards changing the public's attitudes and knowledge about alcoholic beverages, the disease of alcoholism, and explosion of myths and misinformation about both. Essentially, in the long run, prevention is the only answer. And, as in the case of tuberculosis and many other incurable, but controllable diseases, no real progress is made in the control of those diseases until efforts of treating those already chronically ill were supplemented by strong public education and awareness campaigns to bring them out of the shadows and into the spotlight of truth and reality. This phase has really just begun in alcoholism. . .. and other positive steps to bring the scales into balance."

Ms. Hoffman, who has counseled alcoholics in Anchorage as young as 13 years old feels that the ultimate answer to the alcohol abuse problem is the education of the public. She noted

that the curriculum in Anchorage schools includes only instruction on alcohol in health education at the junior and senior high school levels. By that time, she stated, it is too late. "Children need to be educated about alcohol at an early age so that by the time they are ready to consider drinking, they can make decision regardless of peer pressure."

THE ALCOHOLIC AS AN ANTISOCIAL PERSON

Since the 1972 Uniform Alcoholism Act abolished DRUNK IN PUBLIC as a crime certain downtown areas have been inundated with inebriants. We have a proposed statute amendment in Juneau which would allow us to once again arrest drunks. This does not mean that we will be going back to the old drunk in public status, but there will be some kind of a blend between the arrest procedure that we had before and the new treatment procedure that has been instituted. I think that the letter which I have quoted above thoroughly addresses this problem and proposes a solution.

One of the areas that has not been considered has been the drunk driver. This is one of the reasons that I became interested in the alcoholism programs in Anchorage. In my law practice I have handled several cases in which a drunk driver drove over the center line and hit head on some completely innocent family coming from the other direction. These tragedies simply can no longer be tolerated. I have already addressed the subject to some degree in the statistical analysis above, and despite the rather pessimistic prognosis of the study, I think we must make some effort in Alaska to put the drunk driver off the road.

Another item which has been suggested to me is a Tippler's Tax. This would require a certain tax on those who drink at bars. The purpose of the tax would be to help support the alcohol prevention, education and treatment programs. Unfortunately, at the present time, under state law, no special local tax can be placed on alcoholic beverages unless it is part of a general sales tax. This is something which we might consider asking the Legislature to repeal.

There is also the possibility of requiring those who drink to have a "Alcoholic Beverage Drinking Card". Because of enormous problems created by alcohol, the consumption of alcohol might very well be considered a privilege. The card could be taken away just as a driver's license is taken away from bad drivers. Thus a drinker's card might very well be taken away from a person for drunken driving or for being involved in alcohol-related crimes or for being drunk in public.

The Distribution of Alcohol - During my survey of alcohol problems I have had occasion to read Title 4, which covers Alcoholic Beverages, and Title 47 which includes the Uniform Alcoholism Act. Section 04.04.010, which creates the Alcoholic Beverage Control Board, provides "The board shall meet at least once each year in each of the four judicial districts to study, reconsider and modify existing agency rules and regulations in light of current local problems." I believe that this particular provision and charge upon the board has been sadly neglected and should be one of the major activities of the board in light of the seriousness of the alcohol problem in Alaska.

As a matter of fact, all of Title 4 should be given a serious look by a statute revisor. It seems to me upon reading it that it is simply nothing more than a conglomeration of laws that are the result of 50 years of liquor lobbying in Juneau. The laws are there more to protect the industry than the public. Even when you see a law that prohibits a bar from serving a drunk you find out that it really is unenforceable because of the evidentiary problems. That is, you have to prove that the man the bartender was serving was in fact drunk. This requires you to either take the drunk in by his consent for a test to prove he is drunk or it requires you to arrest the drunk and take him in involuntarily for some sort of test. This can't be done any more under the Uniform Alcoholism Act and I don't think there has ever been one prosecution under this particular section. I could go through Title 4 in detail, but it would take a great deal of time and the upshot is that it badly needs revision if it is to be a statute that is to protect the public and not the industry.

Despite the discouraging statistics that arise from the study of alcohol, one does find that there are some areas that offer limited control. For instance, the statistics show a correlation between the availability and the consumption of alcohol. Nationwide, in 1974, the per capita consumption in license states was 2.12 gallons and in controlled states was 1.62 gallons.

The Department of Corrections Task Force stated at the conclusion of their study:

> "The availability of alcohol has a direct relationship to alcohol-related crime. Liquor is the only commodity in the state which can be purchased 21 hours a day. The Task Force recommends that a study be conducted as to

Fourth Avenue watchers indicate the customers are swept out of the bars shortly before the closing hours and that they immediately line up at the package stores on Fourth Avenue to buy enough alcohol to last over until the bars open again three hours later. If one desires to regulate the closing hours, it would seem wise to treat separately the closing hours of bars and the closing hours of package liquor stores. Package liquor stores might legitimately be open from 11:00 in the morning until 9:00 at night and the bars from 11:00 in the morning until 1:00 or 2:00 in the morning. Although there is some argument to the effect that after hours clubs will be encouraged if the bars are not left open until 3:00 a.m.

I'm not sure what effect the number of bars in a community has. However, I think that this deserves some additional research as to the population ratio system that is now the standard. I'm not really certain whether fewer bars would result in less consumption of alcohol but I think it certainly deserves investigation. Certainly fewer bars would be easier to police.

RECOMMENDATIONS

To be determined at work session.

the feasibility of some of the following alternatives to alleviating this problem:

(a) The State of Alaska set up state-owned and operated liquor stores and remove the sale of alcohol from the private sector; thereby taking the profitability out of the sale of alcohol.

(b) Regulations which require the earlier closure of bars and taverns.

(c) Stricter regulations for bars governing the sale of alcohol."

We should also investigate the possibility of controlling the advertising of alcoholic beverages in Alaska. Certainly the advertising we have which depicts the consumption of alcohol as a romantic and desirable social event should be eliminated and, in addition, we should at least do something like the anti-smoking campaigns which show the side of smoking or alcohol which are not social, desirable and romantic events.

We have already noted the possibility of state operated liquor stores but have not mentioned the possibility of increasing closing hours.

Alaska Statute 04.15.010 provides, "No person may consume, sell, offer for sale, give, furnish or deliver from an unauthorized licensee any intoxicating liquor on any licensed premises inside the state between the hours of 5:00 a.m. to 8:00 a.m. each day of the week. Incorporated municipalities may provide for additional closing hours under Section 70 of this chapter."

The opening hours from 8:00 a.m. in the morning until 5:00 a.m. the next morning seem far too liberal. Reports from

Fourth Avenue watchers indicate the customers are swept out of the bars shortly before the closing hours and that they immediately line up at the package stores on Fourth Avenue to buy enough alcohol to last over until the bars open again three hours later. If one desires to regulate the closing hours, it would seem wise to treat separately the closing hours of bars and the closing hours of package liquor stores. Package liquor stores might legitimately be open from 11:00 in the morning until 9:00 at night and the bars from 11:00 in the morning until 1:00 or 2:00 in the morning. Although there is some argument to the effect that after hours clubs will be encouraged if the bars are not left open until 3:00 a.m.

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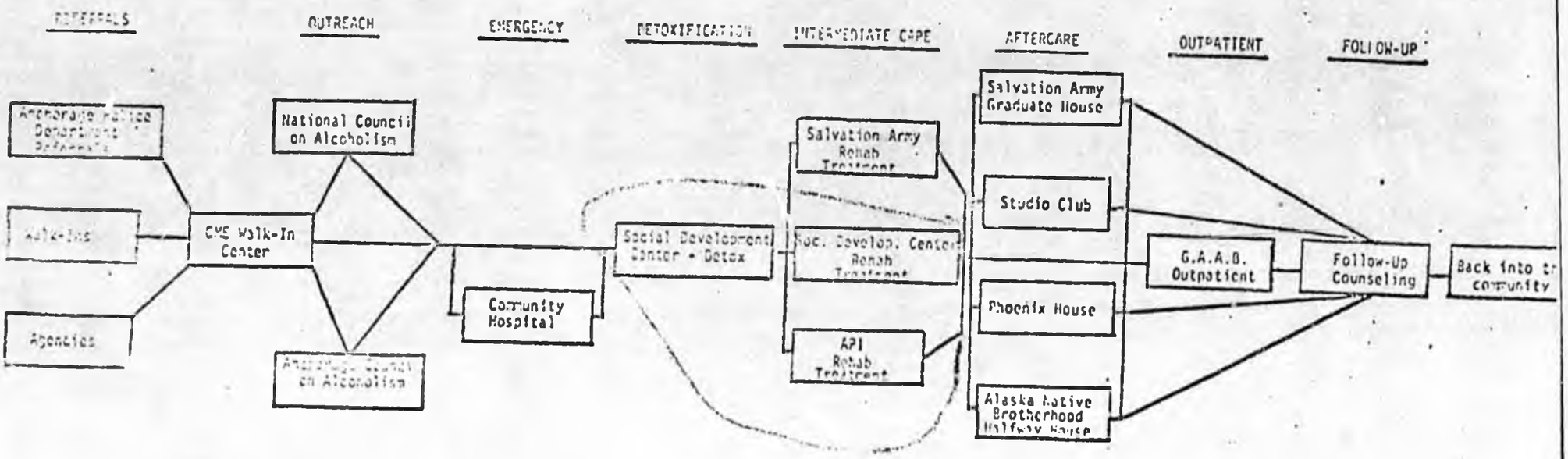
RECOMMENDATIONS

To be determined at work session.

GREATER ANCHORAGE AREA BOROUGH

COMPREHENSIVE ALCOHOLISM TREATMENT PROGRAM

(CATP)



CME WALK-IN CENTER	274-3032
NATIONAL COUNCIL ON ALCOHOLISM	279-3575
ANCHORAGE COUNCIL ON ALCOHOLISM	274-1332
COMMUNITY HOSPITAL	272-9461
SOCIAL DEVELOPMENT CENTER	272-8575
SALVATION ARMY	277-2575
API RE-ED	277-6551
STUDIO CLUB	279-2124
PHOENIX HOUSE	272-9675
ALASKA NATIVE BROTHERHOOD HALFWAY HOUSE	274-3125
GREATER ANCHORAGE AREA BOROUGH OUT-PATIENT COUNSELING UNIT	277-2675

HOTEL & RESTAURANT EMPLOYEES BARTENDERS INTERNATIONAL UNION
AFFILIATED WITH AMERICAN FEDERATION OF LABOR
RECOGNIZED THIS HOUSE AS A
UNION HOUSE
AND MEMBER OF THE SUPPORT OF ORGANIZED LABOR

ALASKA ALLIANCE OF HOTEL
AND RESTAURANT EMPLOYEES
AND BARTENDERS

HOTEL & RESTAURANT EMPLOYEES BARTENDERS INTERNATIONAL UNION
AFFILIATED WITH AMERICAN FEDERATION OF LABOR
RECOGNIZED THIS BAR AS A
UNION BAR
AND MEMBER OF THE SUPPORT OF ORGANIZED LABOR

REGISTERED

REGISTERED

PRESIDENT Joseph Walsh — 1 — SECRETARY Bettie Clancy

March 24, 1976

Representative Bob Bradley
Pouch V
Juneau, Alaska 99801

ATTENTION: Representative Bradley,
Chairman Commerce Committee

Dear Representative Bradley:

As President of the Alaska Alliance, representing 7,000 members in the state of Alaska, I want you to know that we are strongly opposed to House Bill 776.

We will be in Juneau April 7th and 8th, as per your discussion with Mr. Ben Marsh. I would like to personally appear, in conjunction with the CHAR organization, before the Commerce Committee to give our reasons why we are opposed to HB 776.

Very truly yours,

Joseph Walsh
President

cc: Helen Fischer
Ramona Kelley
Oral Freeman
Rick Orion

CITY OF FAIRBANKS

410 CUSHMAN ST.
FAIRBANKS, ALASKA 99701

PIONEER ♦ PROGRESS

FAIRBANKS, ALASKA ALL AMERICA CITY

FAIRBANKS POLICE DEPARTMENT

MARCH 26, 1976

Chairman
House Commerce Committee
Juneau, Alaska 99801

REFERENCE: HB 776

Dear Sir:

Please accept my personal testimony and that of the Fairbanks Police Department in this form in reference to HB 776 now before you:

> "From our experience during the years of 1974 and 1975, particularly the summer months, it would have been highly beneficial to the efforts of law enforcement in the City of Fairbanks to have all retail liquor establishments close for business at the 2:00AM hour. It is our feeling that civil disturbances that approched emergency levels could have been minimized or largely averted had the bars closed their doors prior to the 5:00AM hour now in effect.
>
> It is also strongly recommended that package liquor stores have a closing time of 1 hour prior to whatever time bar closing occurs."

Due to lack of notification, this means has been taken to communicate.
Thank you for this consideration.

Respectfully submitted,

Richard R. Wolfe

RICHARD R. WOLFE
Chief of Police
Fairbanks Police Department
Fairbanks, Alaska

RRW:smf

cc: Represenative Glenn Hackney
House of Represenative

CHAR

Alaska Cabaret, Hotel & Restaurant Association

MARCH 25, 1976

REP. BOB BRADLEY
HOUSE COMMERCE COMMITTEE
FOUCH V STATE CAPITOL BUILDING
JUNEAU, ALASKA 99811

DEAR BOB:

THIS WILL CONFIRM OUR CONVERSATION OF YESTURDAY CONCERNING HB776. WE THANK YOU FOR YOUR COOPERATION ON THIS MATTER.

WE UNDERSTAND THAT HB776 (CLOSING HOURS FOR LIQUOR ESTABLISHMENTS) WILL BE CONSIDERED BY THE COMMITTEE ON MARCH 31. IF THE BILL HAS NO SUPPORT AND IS KILLED BY THE COMMITTEE, THERE WILL BE NO NEED FOR CHAR MEMBERS TO TESTIFY. IF THERE IS SUPPORT, WE UNDERSTAND YOU WILL HOLD IT OVER UNTIL APRIL 9, WHEN MOST OF OUR BOARD OF DIRECTORS WILL BE IN JUNEAU FOR THE LEGISLATIVE DINNER, AND CAN TESTIFY ON IT.

FOR THE RECORD, THE MEMBERS OF CABARET HOTEL AND RESTAURANT ASSOCIATION ARE UNANIMOUSLY OPPOSED TO THIS BILL. THEY FEEL THAT A PROHIBITION MENTALITY IN LIQUOR ESTABLISHMENT REGULATION WILL BE SELF-DEFEATING AND ACCOMPLISH NOTHING TOWARD RELIEVING THE ALCOHOLISM PROBLEM.

THANK YOU AGAIN FOR YOUR HELP.

SINCERELY,

BERNARD L. MARSH
EXECUTIVE DIRECTOR
CHAR

CC: REP. HELEN FISCHER
MEMBERS CHAR BOARD OF DIRECTORS

505 W. Northern Lights Blvd. • Anchorage, Alaska 99503 • (907) 277-0559

Earlier Closing Hours-The Wrong Approach to Alcohol-Related Problems

The alcohol beverage industry shares the concern of many well-intentioned people who are anxious to reduce alcoholism and other problems related to the misuse of its products. We are anxious to cooperate in sound programs to deal with these complex problems.

We take strong exception, however, to proposals which would penalize the members of our industry and the vast majority of our customers who do not misuse our products, especially when such proposals offer little hope of a meaningful reduction in alcoholism and related problems.

Proposals to shorten the permitted hours of operation of on-premise outlets fall into this category. Such proposals overlook the historic evidence that the hours of sale, as well as other control regulations, have little impact on alcohol abuse.

Dr. Selden Bacon, until his recent retirement Director of the Rutgers University Center for Alcohol Studies, has noted, "Actually, this type of law has no effect on the use of alcohol or its problems; the underlying assumptions are fallacious and the laws defeat the philosophy upon which they are based. The control system of the United States is isolated from reality because it assumes that drinking and its problems are entirely dependent on the conditions of sale." [1]

Perhaps the most exhaustive study of control laws and their relation to alcohol problems was published in 1963 by the New York State Moreland Commission on the Alcoholic Beverage Control Law. Study Paper Number 1, issued by the Commission noted, "The alcoholic simply does not accept legal limits to consumption whether those limits be related to time, place, quantity or to kind of alcohol." [2] The report further states, "An analysis of the figures on arrests for driving while intoxicated and for rates of alcoholism in the various communities studied, reinforces a conclusion that laws dealing with sales, sellers and selling are above all irrelevant to the solution of the major problems of alcohol." [3]

Most recently, an official U.S. Government report titled "Alcohol and Health", published in June, 1974 observed, "Liquor control has taken many facets over the years. There have been attempts to control consumption by outright prohibition, limitations on purchases, state monopolies, prohibiting sale by the drink, controlling prices, sumptuary taxation and limiting the number of outlets. Most of the evidence indicates that these measures have not proven to be important in limiting alcohol-related problems." [4]

It is clear from the available evidence that further manipulation of the conditions of sale by shortening the hours for on-premise consumption will neither help those who are now alcoholics nor reduce their future numbers.

As a simple matter of common sense it should be obvious that if an individual wants to become intoxicated he doesn't need all night to do it. Closing pouring places at an earlier hour will not present a serious obstacle. It will present a serious obstacle to night workers and others who enjoy a few sociable drinks at late hours. Those who enjoy 9 to 5 jobs and who retire each evening by 11 p.m. should not assume that all "good people" do the same or that persons who keep different hours are not entitled to the relaxation and enjoyment offered by on-premise outlets. No studies have been made on the time most alcoholics go to sleep for the night, but there is no reason to assume they are over-represented in the late crowd.

We recognize that a minority of on-premise outlets serve obviously intoxicated persons in violation of the law and that these persons create a real hazard on our roads. But rather than strike out against all licensees and their customers, ABC law should address the real problem and take appropriate corrective enforcement steps.

As for the deeper, more complex problem of alcoholism, neither we nor anyone we know of has any easy solutions. Soundly based public education efforts, improved availability and quality of treatment, better occupational programs by employers, and the recognition by health insurance companies that alcoholism is a treatable illness, can be important steps. We urge those who share our concern to look beyond simplistic, "quickie" solutions which have been tried before to no avail.

BIBLIOGRAPHY

1. Bacon, S. D. American Experiences in Legislation and Control Dealing with the Use of Beverage Alcohol. In: "The Legal Issues in Alcoholism and Alcohol Usage"; pp. 123-141. Boston; Boston University Law-Medicine Institute; 1966.

2. The Relationship of The Alcoholic Beverage Control Law and The Problems of Alcohol, by the New York State Moreland Commission on the Alcoholic Beverage Control Law, October 18, 1963, page 35.

3. IBID, page 55

4. Alcohol and Health, Second special report to the U.S. Congress by the Secretary of Health, Education and Welfare. June 1974. DHEW Publication number HSM-72-9099. Page 158.

CRIME PREVENTION SUB-TASK FORCE ON ALCOHOLISM
December 10, 1975

A regular meeting of the Sub-Task Force on Alcoholism was held December 10, 1975 at 4:00 p.m. in the Conference Room of the Anchorage Chamber of Commerce.

IN ATTENDANCE

Mike Colletta - Chairman
Virgil Knight
Ken Hume
John Bowerman

STAFF

Diane Danaher - Secretary

ABSENT

Carl Bailey
Jackie Graham
Wilda Hudson
Claude Johnson
Ben Marsh
Evelyn Phelps

Chairman Colletta called the meeting to order at 4:15 p.m. The purpose of this meeting was to review the attached report prepared by Virgil Knight. This report includes the objectives and recommendations made by the Sub-Task Force on Alcoholism. Deletions and additions were made.

This final report will go to the Crime Prevention Task Force for approval. The intent is that it will go before the Board of Directors at the Chamber and then presumably on to the Mayor and Assembly.

The meeting was adjourned at 5:00 p.m.

SUB-TASK FORCE ON ALCOHOLISM
December 10, 1975

OBJECTIVE

To determine and recommend to the basic Crime Prevention Task Force a positive solution to the "drunk in public" problem prevalent in the downtown area of Anchorage. A solution would serve a two-fold purpose:

1. Help the chronic alcoholic cope with his problem
2. Clean up the core area for the general public.

OPERATING PROCEDURES AND RESOURCE PERSONS HEARD

The Sub-Task Force set up meetings and upon invitation, held interviews and heard testimony from the following people:

Mr. Ed Stewart, Alcoholism Program Manager, Municipal Health Department.
Mr. Claude Johnson, Coordinator, CME Walk-in Center.
Ms. Jackie Graham, Program Treatment Director, Alaska Alcoholism Treatment Center, usually referred to as AATC or SDC.
Mrs. Pat Heibert, Community Relations Officer, AATC.
Chief Charles Anderson and Lieutenant Pavovich of the Anchorage Police Department.
Mr. Thomas Yates, Project Administrator Taheta House.
Mr. Warren Runnerstrom, Chairman, Anchorage Alcoholism Advisory Council.

On November 21, Mr. Hume and Mr. Knight attended a portion of a meeting in Anchorage of the Program Evaluation Team, State Office of Alcoholism based in Juneau.

OBSERVATIONS

There are a number of programs in the Anchorage Area dealing with alcoholism. A degree of coordination exists among these programs, This coordination was developed by the Greater Anchorage Area Borough and is known as the Comprehensive Alcoholism Treatment Program (Depicted on the attached chart). This program ideally carries the "drunk in the street" or the confirmed alcoholic through all possible phases of rehabilitation and puts him back into the community.

We obtained and studied organization charts of each identifiable operative unit. These units are the CME Walk-in Center, the Alaska Alcoholism Treatment Center also referred to as the Detox Center on Point Woronzoff, the Halfway Houses, and the former Borough Outpatient Counseling and Rehabilitation Centers.

We were advised by representatives of the former Borough Health Department that approximately $1.3 million are expended on the program annually with about $943,000 coming from State and Federal sources and apparently the balance from local funds including some client income at the Halfway Houses of possibly $40 - $50,000.

The total staffing in the various functions total some 57 persons plus a portion of the staff of the former Borough Health Department which totaled some 96 authorized postions for all health related programs.

Various statistics were obtained from those interviewed as to the number of "clients" involved. One estimate places the alcoholics in Anchorage at 26,000. The CME Center averages about 200 clients a day or nearly 72,000 during the 1974-75 year of which only 981 were initial contacts. This includes those who walk in and are brought in by the CME patrol, city police and friends. Obviously, most are repeaters. Police estimate there are probably less than 200 persons involved in the "drunk-on-the-street" count at any one time. Some of these repeaters visit the centers two or more times in one day. The Anchorage Alcoholism Advisory Board claims to have identified some 554 repeaters who have gone through Detox at the Alcoholism Treatment Centers more than three times in a year. A few have gone through the full course as much as 15 times.

According to their organization charts, most of the Centers are independent, each with its own non-profit corporation, board of directors and officers. Lines of authority within and between each function seem vague.

While some of the funds and budget allocations appear to be quite explicit, the actual expenditure of funds or an expenditure audit in the various programs has not been located.

The Anchorage Alcoholism Advisory Board apparently has the responsibility for providing recommendations and advise to the Mayor and the Assembly on the program administered in the area. The Board utilizes Federal, State and Municipal funds and seems to be in a good position to monitor and audit the use of these funds. They also should be able to make determinations as to the efficiency and effectivness of the program and to recommend necessary changes if warrented by its studies.

CONCLUSIONS AND RECOMMENDATIONS

We recognize the problems of attempting to separate and deal with only portions of the total alcoholic program but since our primary objective is to improve the Anchorage downtown area by getting the drunk off the streets, we address our recommendations only to that specific phase.

Lines of authority to control the program and expenditures seem ambigious and vague. Instead of a single pyramid type structure, there seem to be several small pyramids with the apexes vaguely connected. Not until the entire program is organized with direction, authority, responsibility, funding, and expenditures to flow from a single head in a centralized planning and administrative agency, can significant improvement in accountability and effectiveness be realized.

We therefore, make the following recommendations:

1. THAT THE MAYOR'S ADVISORY BOARD DEVELOP SPECIFICS TO FORM SUCH SINGLE

PYRAMIDAL ORGANIZATION, INCLUDING FISCAL RESPONSIBILITY, AND SUBMIT SUCH TO THE MAYOR AND ASSEMBLY FOR ADOPTION, IMPLEMENTATION, AND FOLLOW-UP.

2. THAT NO MEMBER OF THE ADVISORY BOARD HAVE A VESTED INTEREST.

3. THAT NO PROFESSIONAL PEOPLE SERVE ON THE MAYORS ADVISORY BOARD.

4. THAT THE MAYORS ADVISORY BOARD BE GIVEN THE RESPONSIBILITY OF FOLLOW-UP.

5. THAT A PATROL UNIT BE ESTABLISHED. THIS PATROL SHOULD BE CLEARLY IDENTIFIABLE. THEY WOULD BE RESPONSIBLE FOR REMOVING THE INEBRIATES FROM THE STREETS, PARKS, AND PRIVATE PREMISES TO A CENTRAL POINT WHERE THE SUBJECT WOULD BE REGISTERED AND DETAINED FOR A PERIOD OF APPROXIMATELY 48 HOURS. DURING THIS PERIOD THE SUBJECT WOULD BE CHECKED AND EXAMINED FOR ILLNESS, CHRONIC DISEASE, MENTAL AND PHYSICAL DISABILITIES, AND RECEIVE PERSONAL COUNSELING. THE RESULTS OF THIS EXAMINATION WOULD INDICATE THE NEXT COURSE OF ACTION. IT WOULD ALSO PREVENT HAVING TO IMMEDIATELY RECYCLE THE SUBJECT IN THE NEXT 48 HOUR PERIOD. WE BELIEVE THAT THIS MAY REQUIRE A NEW MUNICIPAL ORDINANCE AND WILL REQUIRE THE ESTABLISHMENT OF A DETENTION CENTER IN THE DOWNTOWN AREA. IT IS ALSO LIKELY THAT STATE LEGISLATION WILL HAVE TO BE REVISED TO PERMIT FORCEABLE REMOVAL AND DETENTION OF INEBRIATES. IN ANY EVENT, WE MAY ANTICIPATE BEING CHALLENGED IN COURT IN CARRYING OUT THIS POINT. ACCORDING TO TESTIMONY RECEIVED, A TEST CASE IS MORE THAN LIKELY INEVITABLE IN ORDER TO DETERMINE WHOSE CIVIL LIBERTIES ARE BEING INFRINGED UPON--THE INEBRIATE OR THE SOBER CITIZEN.

A large part of the confirmed alcoholics are generally out of sight in their homes, among friends, or at work. The latter group are a major part of the total alcoholism problem but are not the specific problem we address. The former, which form the problem we do confront, is of fairly recent origin. The Alaska Native Corporations have a mutual interest in this problem and they should be included in the planning of the solution.

Daily News

VOL. 41 NO. 76. KETCHIKAN, ALASKA, WEDNESDAY, MARCH 31, 1976 20 CENTS

Alcohol plan rejected:

Social workers and bar owners agree

By BOB SPEED
Daily News Staff Writer

Bar owners and social workers dealing with alcoholism may not often agree, but they did Tuesday evening at a public hearing on, among other things, state-run liquor stores and earlier bar hours. Don't do it, they said.

The hearing was arranged to allow public input on the preliminary draft of a 51-page report on Standards and Goals for Criminal Justice. The report, compiled by the Governor's Commission on the Administration of Justice, deals with goals and standards for future planning in community crime prevention, the juvenile justice system, the police, the courts and offices of corrections.

However, the commission report said the "key issue examined by the task force was alcohol related offenses. This led to the commission's recommendation for state-owned and operated retail liquor stores and to shorten bar hours."

Those proposals, in turn, led to the most controversy resulting from the report.

Ketchikan Police Chief Ray Hackstock, bar owner Bill Marx and Ketchikan Alcoholism Coordinator George Mundell all agreed that neither state-owned liquor stores nor earlier bar closing times is an answer to alcohol abuse problems. They all had different reasons for reaching the same conclusion.

Marx, noting that he had spent several years as a local magistrate sentencing people who had been arrested for driving while intoxicated, said he couldn't see how either shorter bar hours or state-controlled liquor stores would help solve any problems.

Hackstock said he actually prefers longer hours from an enforcement standpoint, because this allows individual establishments to set their own hours. The staggered closing hours in turn allow limited night forces to know where likely trouble spots will be, and to be at the scene, he said.

Mundell said "more control over hours actually brings less control," because it encourages after-hours black market which is indiscriminate to whom it sells, including young people; and because "it has been observed folks generally tend to overdrink in the home (more than) the bar setting."

Another target for opposition was a proposal for jail facilities to be used as holding tanks for intoxicated people until sober. Steven Krause, superintendent of the local jail facility opposed "protective custody" of intoxicated individuals, and the vagueness of the section of the report recommending this alternative. He said the Ketchikan jail is totally inadequate for such use.

Krause also objected to the idea of jail work programs. He said that, ideally, the idea is a good one, but he "totally disagreed" with the proposal to establish such a program in state facilities because jails are unsatisfactory and jail attendants are untrained for this kind of work.

Mark Crewson, the hearing officer who heard testimony, said afterward the Ketchikan public response was far different from that heard in Juneau. He said the Juneau people at that hearing supported earlier closing times and "seemed to consider alcohol abuse a real problem," which they felt the two controversial proposals would help.

He said the Juneau and Ketchikan hearings showed markedly different attitudes, with other hearings yet to be heard in Anchorage, Fairbanks, Bethel and Barrow.

Crewson also said after the hearing the public attitude in criminal justice is showing a strong conservative movement "to lock 'em up with little or no rehabilitation, and just keep them away."

People, he said, seem pretty dissatisfied with the effectiveness of the courts, with many people opposed to Supreme Court decisions that favor rights of the accused.

Some of the proposals dealt with rights of the victim to recompense for loss due to criminal activity.

Barton Penny, Ketchikan probation officer, praised the report as "a very good job," but said the part dealing with victim compensation was imprecise and should be clarified.

Penny also said more training is needed for all parts of the criminal justice system.

He also said the state "needs more emphasis on local, existing facilities," such as schools, mental health facilities and alcohol programs, "rather than stacking more services on top of existing services."

On rehabilitation, Penny said, "I don't think it's enough just to isolate an offender in an institution, because they are eventualy back out on the street again. We have to deal with their problems."

Jim
I'm reading this info at the hearing tonight
You may be interested in pa. of page 2 -

Gateway COMMUNITY MENTAL HEALTH CENTER

KETCHIKAN COMPREHENSIVE ALCOHOLISM PROGRAM

LaPrele S. Rasmussen, R.N., M.S.
Director

3134 Tongass Avenue
Ketchikan, Alaska 99901
Phone 225-4137

March 30, 1976

I am George Mundell and I am Coordinator of the local Ketchikan Alcoholism Program. Our Program is a department of the City of Ketchikan and is primarily funded by the Office of Alcoholism in the Department of Health and Social Services of the State of Alaska and by a federal agency, the National Institute of Alcohol Abuse and Alcoholism.

I would like to voice my opposition to the statement on page C-2 "The Division of Corrections should be eligible to receive grant-in-aid money from the Office of Alcoholism for these problems."

To me this would constitute a raid on what to date has been an insufficient funding source by a segment of or a special interest group in the field of alcoholism. Alcoholism is not just a criminal justice problem.

At the present time our Program is the only grantee of the Office of Alcoholism in this district. As the grantee for the Ketchikan area, we are charged with the responsibility of implementing the Uniform Alcoholism and Intoxication Treatment Act. According to the act, some of the services we are to provide include alcoholism information and referral, prevention, education, emergency treatment, inpatient treatment, intermediate treatment, outpatient treatment, and follow-up.

The amount of money granted our Program by the State Office of Alcoholism to deliver the previously mentioned services under the "act" was $47,000 in FY75 and $58,000 in FY76 with a $17,000 Supplemental Grant in FY76. As you can readily see, this isn't much money for an area the size of Ketchikan to provide all of these types of services. Our Program's problem and the problem of other alcohol programs throughout the state along with the Office of Alcoholism has been lack of money to comply with a pretty good law - The Uniform Alcoholism and Intoxication Treatment Act. To allow the Division of Corrections access to this already inadequate supply of money would further dilute our efforts and probably create splintering and fragmentation of services at the local level - rather than to go into the alcoholism business as part of the "Draft" suggests, corrections would be wiser to increase their support of local alcoholism programs and increase their cooperation with these existing state funded agencies. Here in Ketchikan, our alcoholism program feel we have an excellent working relationship with all elements of the local Criminal Justice system. We should continue to be able to cooperate with these people versus compete with them for scarce available dollars. Personally, I also believe recovery rates for persons with alcohol problems are higher with community based programs such as our as opposed to institution based programs.

On another matter, the Preliminary Draft also suggests increased control over bar opening hours and perhaps State owned liquor stores. As an individual I am not real concerned on these issues because I do not drink, however, as a student of alcohol abuse and alcoholism, I am not convinced tighter controls will bring about a reduction of alcoholism or alcohol related crime. For one reason, more control over hours actually brings less control because bootleggers tend to flourish and usually they are less discriminate regarding who they sell - for instance youth. Secondly, tighter controls over hours encourages more "home" drinking, and it has been observed folks generally tend to over drink in this setting versus the bar setting.

In summary, I would like to compliment the Governor's Commission on the Administration of Justice and its task force for addressing the many issues contained in the Preliminary Draft. I am opposed to creating a super structure type of organization of Criminal Justice particularly as this function of government relates to health and social services. I would encourage instead increased cooperation among all agencies serving the human needs of the persons of Alaska

Thank you very much.

HB 792

"An Act relating to required benefits in individual, group, and blanket disability insurance policies."

COMMITTEE REPORT

HOUSE

2/17/76

Mr. Speaker: Date 4/15/76

The Committee on COMMERCE has had HB 792 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

(X) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

L. S. Bradley - DO Pass _____ _____

_____ _____ _____

_____ _____ _____

Joe D. McKinney _____ _____

Members NOT concurring in the Majority report:

Freeman recommends: DO Pass

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

L. S. Bradley Chairman

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M April 19, 1976

SUBJECT: Changes made by Legislative Affairs Agency Staff to CS HB 792

TO: House Commerce Committee

FROM: Joe Guthrie, Staff Attorney

Substantial Changes

The most substantial change was effected to Section 3 of the bill. The version of CS HB 792 approved by the committee reads as follows: (page 2, lines 24-29) "A medical or hospital service corporation which offers for sale contracts in the state which provide for a definite or determinable payment intended to recompense a person for costs that a person incurs should that person receive hospital services for more than seven consecutive days or which indemnifies a person against costs so incurred must also offer to its holders of such policies in the state the option to purchase at an additional premium supplemental benefits which provide payment for..." I understand the intent of the sponsor of this bill was to require entities which offer hospital services to also offer the consumer less costly alternatives to hospital care, i.e., nursing homes, etc. A hospital service corporation may offer its subscribers hospital services directly, under AS 21.87.130 in addition to indemnifying the subscriber against hospital costs incurred by the subscriber utilizing hospitals which have not entered into a hospital service agreement with the hospital service corporation (see AS 21.87.130(2)). The language of the version of the bill approved by the committee could be construed as requiring service corporations offering the services enumerated in AS 21.87.120(3) (idemnity for hospital services while under the care of a medical service corporation physician) and also under AS 21.87.130(2) (indemnity for hospital services provided the subscriber in non-participant hospitals) to also offer less costly alternatives to hospital care, but the language would seem to preclude an interpretation that hospital service corporations which only provide hospital services to subscribers through participant hospitals be required to offer the consumer less costly alternatives to hospital care.

Due to the aforementioned problems, the bill as rewritten makes specific reference to the powers of the service corporations to provide or indemnify the provision of hospital services (AS 21.87.120(3) and AS 21.87.130(1) and (2)) and specifies that when those powers are exercised, the service corporation must offer less costly alternatives of hospital care to the consumer. Section 4 adds to the powers of the service corporations the power to idemnify the consumer against costs incurred by the receipt of less costly alternatives to hospital care, specified in Section 135(a)(1) and (2) in the bill.

Non-substantial Changes

The following changes were made in the interest of form and clarity. It is not thought that they are of a substantial nature. Lines 13 through 21 on page 1 are deleted for the reason that they would have no effect in the real world. The title is changed in line 23 on page 1 and line 24 on page 2 to read REQUIRED OFFERINGS, since the bill is not requiring that certain benefits be furnished to consumers if any benefits at all are to be furnished to consumers. On lines 5 and 10, page 2, and on lines 6 and 11 on page 3, "and if the services are in response to the same illness or injury which cause the confinement in the hospital" is substituted for "for the same condition" in the interests of clarity. On page 1, line 25, the words "recompense a person for" has been removed and "pay" substituted in the interests of clarity.

JG:smh

cc: Terry Burman

Brian - yours

MEMORANDUM February 27, 1976

SUBJECT: Analysis of HB 792 (W.O. #1691)

TO: Honorable Katharyn Ostrosky

FROM: Brian Saylor
Research Analyst
(Dictated but not read)

The Long Term Care Task Force recommended that health insurance contracts written within the state should offer coverage for less costly alternatives to institutional health care. Mentioned within the recommendation were home health care and outpatient long term care services (see LTC recommendation #15.). This concept is called "progressive patient care" in the literature. If, for example, a patient no longer requires the intensity of care offered in an acute care institution, skilled nursing services might be both more appropriate and less costly. (The cost of one acute care patient day is about $130 while the cost per day of skilled care is approximately half that amount.) Similar savings could be realized by offering home health care as a substitute for skilled nursing care. The progressive patient care concept can be seen graphically in Figure 1.

HB 792 attempts to address this problem. The bill requires most health insurance carriers within the state to offer a variety of benefits to policy holders which would allow reimbursement for services other than those provided by an institution. Medical service corporations and hospital service corporations such as Blue Cross and Blue Shield, were omitted, probably by oversight.

Section 1 requires that all companies writing disability policies include less costly alternatives to hospital care in the benefit package. Section 2 does the same with group policies. Under the bill as now written, no company would be able to offer anything less than a comprehensive benefit package to subscribers.

This requirement is not acceptable to either the director of Insurance or the representative for the Life Insurance Association (LIAA). Both men suggest a better approach would be to require companies to offer the coverage to those who want to buy it, but not make such comprehensive

benefits a mandatory component of every policy sold in the state. This position is taken for two reasons:

1. the cost of the policy might become prohibitively high and may have the effect of driving some insurance companies out of the state.

2. a mandatory benefit package does not allow for individual freedom of choice in purchasing policies.

Language which would be close to accomplishing the intended objective of encouraging progressive patient care might be:

Section 21.51.335. REQUIRED BENEFITS. (a) A disability insurance carrier which offers for sale policies within the state which provide for a definite payment to recompense a person for costs incurred should that person be hospitalized for more than seven consecutive days or which indemnified a person against costs so incurred must also offer for sale within that state insurance favorable to the person insured which recompense or indemnify that person against costs incurred by less costly alternatives to care in a hospital, skilled nursing home, or other type of health care facility, including outpatient long-term care services and home care services.

The language for Section 2 addressing group policies would be similar.

It was noted that the definitions section also needs some work to separate out the various types of facilities and services required of health insurance policies. The specific language is currently being considered by the LIAA representative.

An additional consideration suggested by the LIAA representative was the requirement for admitting physicians to place patients in less costly types of health care whenever medically appropriate. He said that it would be a very tricky piece of drafting.

The suggestion was also made to include hospital and medical service corporations (AS 21.87.) in this bill.

More information regarding the actuarial data and suggested substitute language are being developed by the LIAA representative and the director of insurance:

Mr. Mike Thomas, Attorney Representative for LIAA 586-3340	Mr. Richard Block Director of Insurance 465-2515

There should be more information on this soon. As it becomes available I'll pass it on to you.

BS:jm
Attachment

HB 794

House Bill 794 seeks to encourage public participation in two banking institutions, mutual savings banks and savings and loan associations. These institutions were created to promote thrift among people of small means.

Mutual savings banks are non-stock, non-profit banks, and thus are not taxed as banks. Presently, voting rights are granted only to their small group of corporators, who do not directly represent the depositors. This bill would extend voting privileges to the depositors, who share proportionately in earnings after expenses and allocations to reserves and surpluses by the trustees. Just as shareholders may vote in corporations, depositors could vote in mutual savings banks on matters affecting their investments.

The original reason for not extending voting to depositors was since the class of depositors was the poor, they could not be expected to be knowledgeable for intelligent voting. This condescending attitude toward the poor seems inconsistent with our contemporary Alaskan values, which encourage public participation by all citizens. Opening up voting would give the consumer protection for his investments . This is in the true spirit of the purpose of mutual savings banks.

Section 4 intends to accomplish the same - namely, public participation,- for savings and loan associations by denying proxies. Proxies in a membership institution defeats the social purpose of suchan institution by transferring power to the hands of a few powerful people. It would be beneficial to keep an institution in reach of the people for which it was intended to serve. Those who want corporate structures have the alternative of commercial banks and trust companies.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF BANKING, SECURITIES, SMALL LOANS & CORPORATIONS POUCH D — JUNEAU 99811

February 25, 1976

Honorable Bob Bradley
Chairman
House Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Bob:

Re: HB 794 - Proxy Voting

I will not be able to attend the hearing on HB 794, which is scheduled for Wednesday evening, February 25. I would like to present my comments in writing since I cannot express them verbally before the Committee on the 25th. Therefore, could you please read this to the Committee at the hearing.

I oppose this bill because:

1. The effect of this bill is to permit a few large stockholders to dominate their banks by effectively making it unlikely that most small shareholders will vote, since they will not attend the meetings.

2. The bill would create a greater concentration of banking control because the small shareholders would be less likely to participate.

3. The bill would cause banks to be further immune from the sensibilities and sensitivities of the community which is represented to some extent by their widely dispersed shareholders.

Sincerely yours,

Miles S. Schlosberg

Miles S. Schlosberg
Director

STATE OF ALASKA
THE LEGISLATURE

POUCH V - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 25, 1976

SUBJECT: Constitutionality of State Prohibition on Proxy Voting as Applied to State Chartered Financial Institutions - WO #2251

TO: Representative Bob Bradley

FROM: John Siemers, Legislative Intern

Under the Securities and Exchange Act of 1934 (15 U.S.C. 78a et. seq.) the Securities and Exchange Commission is authorized to adopt regulations governing solicitation of proxies (15 U.S.C. 78n). The Commission's authority extends only to securities which are required to be registered under the '34 Act. Under section 12(b) of the Act (15 U.S.C. 781(b)) securities listed on a national exchange must be registered with the Commission. Under 12(g) of the Act securities in a corporation whose assets exceed $1,000,000 and whose stockholders number 500 or more persons must also be registered. Voluntary registration is also recognized under 12(g) for securities which are not required to be registered under the Act.

However, under 12(g)(2)(C) any security, other than a security evidencing nonwithdrawable capital, issued by a savings and loan association, cooperative bank, homestead association or similar institution, which is supervised and examined under state or federal law need not be registered under the Act (and, indeed, the wording of subsection (g) appears to be such that voluntary registration is not permitted either).

Therefore, for purposes of the proxy regulations of the '34 Act, there are two classes of securities. One class consists of securities not subject to registration. The other class consists of (a) the securities of corporations whose stock is listed on a national exchange or, (b) whose assets exceed $1,000,000 and whose shareholders number at least 500 or more. A ban on proxy voting when applied to a state chartered bank which falls under this classification might raise questions as to federal supremacy in the area of proxy regulations. It might be argued that Congress in adopting a uniform system of proxy regulations applicable to a certain

class of securities also intended to develop a uniform system of shareholder voting which contemplates the existence of proxy voting. As such, a state law forbidding the use of proxies where such a ban is applied to securities registered under the '34 Act might represent state interference in a regulatory field over which Congress has chosen to exercise exclusive jurisdiction. This argument seems rather tenuous, since federal regulations of proxy solicitations and voting are, when applied to state chartered corporation, supplemented by the state's law of agency. Thus it would appear that Congress has not preempted the field, and that Congress has not created a federally protected right to vote by proxy. Federal regulations affecting proxies simply establish procedures by which proxies may be solicited (see 12 CFR 11.5, 206.5 and 335.5).

If securities registered under the '34 Act can be subjected to a state ban on proxy voting, exempted securities would also be subject to such a ban without interfering with federal supremacy. This does not mean, however, that such a ban would be immune from any constitutional challenge. Depending upon how the courts interpret the policy objectives of the bill, it may be struck down either under the equal protection clause or the commerce clause of the United States Constitution. If the court perceives the bill as an attempt to achieve a legitimate policy objective (e.g., to encourage shareholder participation in management of the corporation and to subject management to more careful scrutiny by stockholders) then the ban would probably be upheld. If, however, the courts look deeper into the intent of the bill, they could possibly conclude that the ban represents an attempt to eliminate out of state shareholders in Alaska's financial institutions. If the court reached this conclusion, it would undoubtedly declare the ban an unconstitutional discrimination against interstate commerce or possibly a denial of equal protection.

JS:bh

HB 802

"An Act relating to regulation of Taxicabs."

COMMITTEE REPORT

HOUSE

2/17/76

JUDICIARY

Mr. Speaker: Date 2/27/76

The Committee on COMMERCE has had HB 802

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

L. Hadley	D. Hall	
[illegible]	[illegible]	
[illegible]	[illegible]	
[illegible]	[illegible]	

Members NOT concurring in the Majority report:

_____ recommends:

H. Fischer recommends:

_____ recommends:

_____ recommends:

_____ recommends:

L. D. Hadley Chairman

February 20, 1976

Mr. James Johnson, Chairman
Transportation Commission
10th Floor, Mackay Building
338 Denali Street
Anchorage, Alaska 99501

Dear Mr. Johnson:

The House Commerce Committee will hold a public hearing on House Bill No. 802, "An Act relating to regulation of Taxicabs." The Committee will hear testimony on Friday, February 27, 1976 at 8:00 A.M. in the House Commerce Committee room located in Room 628 of the Court Building in Juneau.

This bill adds a new section to the Alaska State Statutes, AS 28.15, by requiring a taxicab driver's permit. It also restricts municipalities from regulating the operation, maintenance, or fares of taxicabs.

If you cannot send a representative to testify on this bill, the committee will accept testimony in writing. Testimony may be sent to my office at Pouch V, Juneau, Alaska 99811 for distribution to the committee.

Sincerely,

Representative Bob Bradley
Chairman, House Commerce Committee

February 20, 1976

Mr. Dennis Robertson
Dept of Public Safety
Pouch N
Juneau, Alaska 99811

Dear Mr. Robertson:

The House Commerce Committee will hold a public hearing on House Bill No. 802, "An Act relating to regulation of Taxicabs." The Committee will hear testimony on Friday, February 27, 1976 at 8:00 A.M. in the House Commerce Committee room located in Room 628 of the Court Building in Juneau.

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Sincerely,

Representative Bob Bradley
Chairman, House Commerce Committee

February 20, 1976

Mr. Jim Sinnett
3200 Mt. View Drive
Anchorage, Alaska 99504

Dear Mr. Sinnett:

The House Commerce Committee will hold a public hearing on House Bill No. 802, "An Act relating to regulation of Taxicabs." The Committee will hear testimony on Friday, February 27, 1976 at 8:00 A.M. in the House Commerce Committee room located in Room 628 of the Court Building in Juneau.

This bill adds a new section to the Alaska State Statutes, AS 28.15, by requiring a taxicab driver's permit. It also restricts municipalities from regulating the operation, maintenance, or fares of taxicabs.

If you cannot send a representative to testify on this bill, the committee will accept testimony in writing. Testimony may be sent to my office at Pouch V, Juneau, Alaska 99811 for distribution to the committee.

Sincerely,

Representative Bob Bradley
Chairman, House Commerce Committee

February 20, 1976

Mr. Douglas Wetford, Manager
Municipality of Anchorage
P. O. Box 400
Anchorage, Alaska 99510

Dear Mr. Wetford:

The House Commerce Committee will hold a public hearing on House Bill No. 802, "An Act relating to regulation of Taxicabs." The Committee will hear testimony on Friday, February 27, 1976 at 8:00 A.M. in the House Commerce Committee room located in Room 628 of the Court Building in Juneau.

This bill adds a new section to the Alaska State Statutes, AS 28.15, by requiring a taxicab driver's permit. It also restricts municipalities from regulating the operation, maintenance, or fares of taxicabs.

If you cannot send a representative to testify on this bill, the committee will accept testimony in writing. Testimony may be sent to my office at Pouch V, Juneau, Alaska 99811 for distribution to the committee.

Sincerely,

Representative Bob Bradley
Chairman, House Commerce Committee

February 20, 1976

Sunny Carpenter
Presiding Officer
Fairbanks North Star Borough
P. O. Box 1267
Fairbanks, Alaska 99707

Dear Mr. Carpenter:

The House Commerce Committee will hold a public hearing on House Bill No. 802, "An Act relating to regulation of Taxicabs." The Committee will hear testimony on Friday, February 27, 1976 at 8:00 A.M. in the House Commerce Committee room located in Room 628 of the Court Building in Juneau.

This bill adds a new section to the Alaska State Statutes, AS 28.15, by requiring a taxicab driver's permit. It also restricts municipalities from regulating the operation, maintenance, or fares of taxicabs.

If you cannot send a representative to testify on this bill, the committee will accept testimony in writing. Testimony may be sent to my office at Pouch V, Juneau, Alaska 99811 for distribution to the committee.

Sincerely,

Representative Bob Bradley
Chairman, House Commerce Committee

February 20, 1976

Mr. William Verwols
Acting Manager
Ketchikan Gateway Borough
344 Front Street
Ketchikan, Alaska 99901

Dear Mr. Verwols:

The House Commerce Committee will hold a public hearing on House Bill No. 802, "An Act relating to regulation of Taxicabs." The Committee will hear testimony on Friday, February 27, 1976 at 8:00 A.M. in the House Commerce Committee room located in Room 628 of the Court Building in Juneau.

This bill adds a new section to the Alaska State Statutes, AS 28.15, by requiring a taxicab driver's permit. It also restricts municipalities from regulating the operation, maintenance, or fares of taxicabs.

If you cannot send a representative to testify on this bill, the committee will accept testimony in writing. Testimony may be sent to my office at Pouch V, Juneau, Alaska 99811 for distribution to the committee.

Sincerely,

Representative Bob Bradley
Chairman, House Commerce Committee

Alaska State Legislature

House

JUNEAU ALASKA

NOTICE OF PUBLIC HEARING

The House Commerce Committee will hold a public hearing on House Bill No. 802, "An Act relating to the regulation of Taxicabs." The Committee will hear testimony on Friday, February 27, 1976 at 8:00 A.M. in the House Commerce Committee room located in Room 628 of the Court Building in Juneau.

The committee invites all interested persons to present testimony at that time. Written testimony will also be accepted. It should be addressed to Representative Bob Bradley, Pouch V, State Capital, Juneau, Alaska 99811.

February 20, 1976

Mr. Jim Chrispman
Anchorage Times
820 W. 4th Avenue
Anchorage, Alaska 99501

Attention Advertising Department:

The enclosed ad is to be place in your newspaper as a display ad for the period of Monday, February 23 through Thursday, February 26.

The bill for the ad should be sent to the following:

Division of Administrative Services
Legislative Affairs Agency
Pouch Y
Juneau, Alaska 99811

Thank you.

Sincerely,

Representative Bob Bradley
Chairman House Commerce Committee

February 20, 1976

Mr. Haslett
Fairbanks Daily News Miner
P. O. Box 710
Fairbanks, Alaska 99701

Attention Advertising Department:

The enclosed ad is to be place in your newspaper as a display ad for the period of Monday, February 23 through Thursday, February 26.

The bill for the ad should be sent to the following:

Division of Administrative Services
Legislative Affairs Agency
Pouch Y
Juneau, Alaska 99811

Thank you.

Sincerely,

Representative Bob Bradley
Chairman House Commerce Committee

February 20, 1976

Ketchikan Daily News
501 Dock
Ketchikan, Alaska 99901

Attention Advertising Department:

The enclosed ad is to be place in your newspaper as a display ad for the period of Monday, February 23 through Thursday, February 26.

The bill for the ad should be sent to the following:

Division of Administrative Services
Legislative Affairs Agency
Pouch Y
Juneau, Alaska 99811

Thank you.

Sincerely,

Representative Bob Bradley
Chairman House Commerce Committee

February 20, 1976

Daily Sitka Sentinel
112 Barracks
Sitka, Alaska 99835

Attention Advertising Department:

The enclosed ad is to be place in your newspaper as a display ad for the period of Monday, February 23 through Thursday, February 26.

The bill for the ad should be sent to the following:

Division of Administrative Services
Legislative Affairs Agency
Pouch Y
Juneau, Alaska 99811

Thank you.

Sincerely,

Representative Bob Bradley
Chairman House Commerce Committee

Mail Div. Admin Serv
ask to bill to Leg Affairs
Pouch / copy
Send to ~~Leg~~ Send. copy.

Attention:
Jim Advertising
& Chrispman
Anch. Times
820 W. 4th Ave
Anch 99501

Sitka - Daily Sitka Sentinel
747-3219 112 Barracks
Sitka,

Ket - Daily News
501 Dock
Ketchikan, Ak 225-3157
99901

Fairbanks Daily News Miner
200 N. Cushman
Fairbanks, Ak 99701

456-6601

Mr. Hazlett
Dieley P.O. Box 710
Ada. 99701

February 20, 1976

Mr. Earl Richards
Deputy Mayor
City & Borough of Sitka
P. O. Box 79
Sitka, Alaska 99835

Dear Mr. Richards:

The House Commerce Committee will hold a public hearing on House Bill No. 802, "An Act relating to regulation of Taxicabs." The Committee will hear testimony on Friday, February 27, 1976 at 8:00 A.M. in the House Commerce Committee room located in Room 628 of the Court Building in Juneau.

This bill adds a new section to the Alaska State Statutes, AS 28.15, by requiring a taxicab driver's permit. It also restricts municipalities from regulating the operation, maintenance, or fares of taxicabs.

If you cannot send a representative to testify on this bill, the committee will accept testimony in writing. Testimony may be sent to my office at Pouch V, Juneau, Alaska 99811 for distribution to the committee.

Sincerely,

Representative Bob Bradley
Chairman, House Commerce Committee

LA11 0008 14.34 LA01 0027 14.34 02/26/76

TO: HAN, JUN
FROM: KAREN, ANCH

I HAVE A RATHER LENGTHY TRANSMISSION FOR REP. BOB BRADLEY FROM THE ANCHORAGE MUNICIPAL ATTORNEY WHO IS UNABLE TO BE AT A COMMERCE COMM HEARING ON HB 602 TOMORROW. EVIDENTLY HIS COMMENTS HAD BEEN SOLICITED AND HE HAD BEEN TOLD OUR OFFICE WOULD TRANSMIT THEM. SO HERE GOES. PLEASE ACK RECEIPT AT END. THANKS.

TO: REP. BOB BRADLEY
FROM: RICK GARRETT, ANCHORAGE MUNICIPAL ATTORNEY

THANK YOU FOR YOUR RECENT LETTER TO MR. MILFORD IN WHICH YOU ASKED FOR THE MUNICIPALITY'S REACTION TO HB 602.

(MORE)

LA11 0302 14.43 LA01 0325 14.43 02/26/76

CONTINUATION TO REP. BRADLEY...

THE ANCHORAGE MUNICIPALITY OPPOSES HB 602 FOR SEVERAL REASONS. FIRST, SOME REGULATION OF THE NUMBER OF TAXIS OPERATING IN ANCHORAGE IS DESIRABLE AS A MATTER OF PUBLIC POLICY. EXCESSIVE NUMBERS OF TAXIS WOULD CREATE SEVERE TRAFFIC CONGESTION IN ANCHORAGE, PARTICULARLY IN CERTAIN KEY DOWNTOWN AREAS.

HISTORICALLY, UNREGULATED COMPETITION HAS NOT WORKED WELL IN THE TRANSPORTATION FIELD. TAXIS DO NOT PROVIDE THE SAME KIND OF PUBLIC SERVICE AS PRIVATE AUTOMOBILES. THEY ARE USED BY INDIVIDUALS WHO DO NOT OWN PRIVATE CARS. AS A RESULT, THE REGULATION OF TAXIS IS NOT SUBJECT TO THE SAME MARKET FORCES AS THE REGULATION OF PRIVATE AUTOMOBILES. IT IS MORE COSTLY TO PROVIDE TAXI SERVICE, AND THE REGULATION MUST ENSURE THAT THE TAXI SERVICE IS AVAILABLE WHEN AND WHERE IT IS NEEDED. (MORE)

CONTINUATION OF NO. 0010A11....

[illegible] VIRTUALLY EVERY [illegible] IN THE NATION REGULATES TAXIS. IT SEEMS [illegible] COMPELLING REASON [illegible] STAND BEHIND A SINGLE DEPARTURE FROM NATIONAL PRACTICE IN THIS AREA.

[illegible] THE LEGISLATURE SHOULD BE CAREFULLY SENSITIVE TO INTERVENE IN THE TRADITIONALLY LOCAL GOVERNMENT FUNCTIONS. [illegible] OF THE [illegible] CONSTITUTIONAL [illegible] OF [illegible] LOCAL OR [illegible] AND LIMITS CONSTRUCTION OF LOCAL GOVERNMENT POWERS.

City and Borough of Sitka

P.O. BOX 79 · SITKA, ALASKA · 99835

24 February 1976

Representative Bob Bradley
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Representative Bradley:

I am in receipt of your letter dated February 20, 1976, addressed to our Deputy Mayor and the copy of HB 802 which accompanied same. The City and Borough of Sitka opposes HB. 802, which we consider a further infringement on the powers of local governments.

Surely our State has better use for the funds and personnel which would be required to administer the proposed legislation? We are quite capable of regulating the taxi business in Sitka at no expense to the State, and we insist we be allowed to retain that right.

Very truly yours,

Fermin Gutierrez
Administrator

FG:mm

cc: R. Eliason
P. Meland
E. Haugen

STATE OF ALASKA
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
ALASKA TRANSPORTATION COMMISSION
JAY S. HAMMOND, Governor
MACKAY BUILDING
338 DENALI STREET – ANCHORAGE 99501

February 26, 1976

Honorable Bob Bradley
Chairman
House Commerce Committee
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Bradley:

In response to your letter of February 20, 1976 concerning HB-802, an Act relating to regulation of taxicabs, I would point out that present Alaska statutes, specifically AS 42.15 (Bus Transportation) charge the Alaska Transportation Commission with regulation of buses and certain commercial vehicles transporting passengers, baggage, and express for-hire on the highways of Alaska. In section 421(4) of this chapter taxicabs are exempt from regulation by this Commission. House Bill No. 802 would not change that in that essentially the Bill transfers the regulatory obligation of taxicabs from municipalities to the Commissioner of Public Safety.

As the legislature is aware this agency has a tremendous workload presently regulating air commerce, bus transportation and the motor carrier industry and we are not necessarily looking for any additional responsibilities. We presently feel that the regulation of taxicabs should be a local matter since all cities and towns have their various unique problems. There is one area that should be considered in any new legislation that presently could lead to problems, and that is the definition of a taxicab. For example, the Anchorage ordinances define a taxicab as a vehicle transporting passengers with a capacity of 9 people including the driver. AS 42.15.431 (Bus Transportation) sub-paragraph (12) defines taxicab as a passenger vehicle having a seating capacity of not more than 7 persons including the driver. To avoid conflicts between various jurisdictions uniform language should be incorporated throughout the state particularly in view of the new innovations in transportation such

as Dial-a-Ride coming into the transportation scene which do not clearly conform to the various bus classifications in AS 42.15 and performs services similar to taxicabs with various seating capacities.

If I can be of any further ssistance do not hesitate to contact this office.

Sincerely yours,

ALASKA TRANSPORTATION COMMISSION

Jake Johnson, Chairman

HB 814

SPA-490-V
Anchorage, Alaska 99507

March 10, 1976

File

All Senators and Representatives
Pouch V
Juneau, Alaska 99811

Gentlemen:

Reference is made to House Bill No. 814, "An act providing for the licensing of building designers". I am totally opposed to this legislation as it is not in the best interest of the citizens of our State.

I am a graduate engineer from the University of Alaska and am registered in Alaska as a Professional Engineer. I have for many years been in the position of Contracting Officer's Representative, administrating the design and/or construction of varied building programs. This past year, I supervised an office which administered a $77 million building construction program. These projects range from several thousand dollars to several million dollars and are located in both urban and rural areas of Alaska.

I believe this qualifies me to have some knowledgeable opinions on the quality of designs that are prepared by Alaskan professionals. We have problems as these designs are prepared by humans but at least we maintain the highest possible standards for registration of professional Engineers and Architects. However, to lower these standards by passage of HB 814 would only serve to increase the problems.

For example, under HB 814, one individual would be permitted to design the foundations, structural system, electrical, mechanical, and all architectural features of a structure four (4) stories high of unlimited square footage and of any type of occupancy. I have never in my career met a man or woman so qualified and I hope I never meet one who thinks he is. Under existing law and practice, an Architect would design such a structure, utilizing the services of professionally registered consultants in the following fields (1) Soils and Foundations (2) Structural Engineering (3) Mechanical Engineering (4) Electrical Engineering. He might also utilize other consultants depending on the program but those listed are the absolute minimum. It is physically impossible for one individual to keep up with all the codes for these various specialized fields. If you disagree and do feel these "building designers" are that good then I say they would have no trouble in passing the examinations for professional registration as Engineers or Architects. So why the need for this bill?

The whole purpose of professional registration is to protect the public by insuring that designers have certain qualifications and are above reproach in the conduct of their responsibilities to their clients. It is a tough job which even at best is plagued with problems. To lower the standards only serves to increase the potential danger to our citizens.

Would you want to be in a four (4) story building designed by a nonprofessional during the next earthquake? Fire?

I urge that this bill not be passed.

Very truly yours,

Jerome R. George, P.E.

cc: Doug Ackley, Chairman
Board of Registration for Architects, Engineers and Land Surveyors

building design

american institute of

A NON-PROFIT CALIFORNIA CORPORATION

March 12, 1976

Mr. Ted Smith, Representative
Alaska House of Representatives
Pouch V
Juneau, Alaska 99801

Dear Sir:

The question arises as to "why should building designers be registered?".

The answer is:

Building Designers should be registered for the same multitude of reasons that architects, engineers, accountants, physicians, surgeons, etc., are registered. Too many times the public has been subjected to faulty planning and design by irresponsible, inexperienced, uneducated and inept practitioners in various types and forms of human edifices, which soon become eyesores, public nuisances or hazards.

Registration provides the power and authority to eliminate and control shoddy design and construction to the public through its governmental offices. Registered building designers must maintain a higher level of practice standards than designers who are allowed to do as they choose or, as so often happens, as their client demands. Many times clients are so cost conscious that the need for public benefit and protection is lost. When the only consideration by the developer is monetary, safety and social factors are the first to fall by the wayside.

A building designers' board could and would deal swiftly with abuses of the profession through setting of standards which would provide for public protection and benefit within limits established through the profession. The board should have powers to penalize and enforce these standards on practicing professionals.

The instant slums created in so many locations throughout the nation and the world and the failures of shoddily constructed homes, illustrate the fact that many contractors simply do not keep up with the trends. It isn't necessarily true that they don't wish to, it simply points out the fact that trained professionals will have to pay more attention to the details that make the difference and do a more accountable job.

In registering building designers, California acknowledged the need for registration. The California program missed a few important details in its registration law and they are

telephone (415) 697-7680

839 mitten road, suite 206, burlingame, california 94010

readily apparent to building designers. These errors in California law can and hopefully will be eventually amended. At any rate, the California Registration Act has proven to be satisfactorily enforced and has imposed no great hardships or problems since its initiation in 1964. The most unsatisfactory part of its act is that it is not broad enough in its coverage and should also have included residential design which it neglected to do.

The theory for omitting residential design from the act was that it might infringe on someone's civil rights in preventing them from designing their own home. This did not recognize the fact that the individual who designed his own home might not live in that home. Then, if it were in some way faulty, would it not perhaps infringe on the rights of the occupant or later purchaser? No great cost or effort would be imposed upon individuals who wished to design their own homes. They would simply have to prepare their plan under the supervision of a responsible professional.

Most people do not live in one place for a lifetime, and so when they sell that "owner designed home", it is probably more difficult to sell due to design errors which other occupants would not appreciate.

Citing further illustrations, consider the buildings damaged by earthquakes, storms and other natural causes. No one will say that many of the buildings lost were not professionally designed. However, if you study the damages and history of these events, you will find that the major losses in life and property were in edifices designed by unregistered people who simply did not specialize in keeping up with the professional practice and responsibility.

In closing, let me say that most building failures, like airplane crashes, are due to pilot error. Register the building designer for the benefit of the public, other professionals, and the designer. Without registration, the designer has to complete against cheap, inefficient, careless and irresponsible competition who cannot be penalized for their erroneous ways. This is the the detriment of the publics health and welfare.

Thank you for this opportunity to address you, and I wish you the best and Godspeed.

Sincerely,

Wayne F. Lawson

Wayne F. Lawson, President
American Institute of Building Design

WFL/ds

ALASKA CHAPTER THE AMERICAN INSTITUTE OF ARCHITECTS

March 17, 1976

Representative Bob Bradley
State House
Pouch V
Juneau, AK 99801

Subject: House Bill 814

Dear Representative Bradley:

The Executive Board of the Alaska Chapter of The American Institute of Architects has received copies of the proposed statute. The Board offers the following comments regarding the bill:

1. To the best of our knowledge no element of this bill provides for any protection of health and welfare. It just merely provides exclusive use of the term "Building Designer" to those few individuals who take an examination and pay licensing fees. We seriously doubt whether legislation of this type is of value to the Alaskan public, and therefore, question whether it should become a statute.

2. If the legislature feels that additional protection of public health and welfare is needed beyond that currently provided in the Alaska Statute AS 08.48.011 Chapter 48 regarding Architects, Engineers and Land Surveyors, we feel that such additional protection should be included within the framework of that current statute. The current statute should be amended to include those types of projects not already included such as:

   a. Commercial buildings less than 500 sq. ft.

   b. Residential structures of four dwelling units or less.

   c. Agricultural building or buildings for personal use.

This amended legislation could take two forms:

PLEASE REPLY TO 505 W. Northern Lights Blvd.
Anchorage, AK 99503

It could include the building designer as a professional qualified to provide the services outlined above or could include a requirement for architect/engineer involvement on these project types.

3. Should the legislature elect to enact proposed legislation for building designers, we feel that such legislation would duplicate the existing Statute AS 08.48.011 Chapter 48. We see in the proposed legislation a conflict wherein the designer may perform services on structures of up to four stories without the need to associate with an architect or engineer. This is definitely in conflict with the current Architects, Engineers and Land Surveryors statute.

4. We feel that this legislation would confuse the public since it does not restrain anyone from designing buildings of the types outlined above. It only regulates the title "Building Designer" and makes it difficult for individuals, even if qualified, to call themselves such.

Sincerely,

Michael E. Plunkett A.I.A.
President
Alaska Chapter, A.I.A.

MEP/bc

The Alaska Society of Professional Engineers

March 5, 1976

Honorable Senators and Representatives:

The legislative Committee of the Juneau Chapter, Alaska Society of Professional Engineers, would like to take this opportunity to comment on several pieces of legislation now under consideration. The Committee offers the following comments, inasmuch as the bills listed herein affect the engineering profession:

Senate Bill 537:

This bill adds two "public members" to each of a number of State Boards responsible for registering or licensing various professions, including engineering and land surveying. The stated eligibility for such "public members" is complete unfamiliarity with the particular profession as to qualifications, conduct, professional ethics, or practices of the profession. It is difficult to understand how the presence of someone so completely lacking in specific knowledge could possibly be beneficial in the selection status, and we therefore are not in favor of this bill. It is noted that the legal fraternity has been conspicuously omitted from the list of affected professions.

House Bill 578:

This bill establishes an Alaska Credentialing Review Commission to review the statutes and regulations regarding credentialing for numerous occupations and professions. Members of this commission could have no connection whatsoever, except as consumer, with any person or firm engaged in any of the listed occupations. The ability, of someone so completely remote from these occupations, to evaluate the statutes regulating such occupations, is at best a highly problematical thing. We feel that the individual professions can best govern their own field.

House Bill 646:

This bill would concentrate the selection of consultants for all state agencies in the Department of Public Works. Among its other objectionable features, it would allow a member of the Selection Board to approve award of a consultant contract to his own firm. The requirement that each agency must determine its requirements for professional services a year in advance is totally unrealistic. Under present law, user agencies now give public notice of their intent to utilize such services, and most have adequate regulations concerning the selection thereof. By separating the user agency from the selection process, the lines of communication between consultant and user may be tenuous at best, and non-existent at worst.

It is doubtful if the expenses involved in the operation of this board can be sufficiently beneficial to the State as to be justified.

House Bill 814:

This bill would create a category of "Registered Building Designer", along with a Board to administer the act. Basically, this bill would give authority to design most buildings in the State of Alaska, with no knowledge whatsoever of engineering or architecture. Anyone who represents himself to the public as a "building designer" for a period of three years, prior to enactment of this bill, is entitled to registration without examination. The educational and experience requirements in the bill are utterly meaningless, since such education and/or experience need not be involved with any particular profession or occupation. As now worded, a person who has completed the fourth grade in elementary school could qualify after working one year at most anything. A license for a person of such limited background to design buildings up to four stories in height, including the structural aspects, along with mechanical and electrical systems, is completely contrary to the safety and welfare of the public. We strongly recommend rejection of this bill.

House Bill 773:

This bill would require an environmental impact report for every project by a state agency on state land. Inasmuch as all state activities are now cleared through the State Clearinghouse, the benefits of this additional bureaucratic maze is somewhat questionable, and we feel that this bill is not really necessary.

House Bill 741:

This bill would create a Highway Commission, which would tend to remove the Highway Department from the political arena. About thirty states now have some such an organizational structure and it appears to be satisfactory. We feel that this particular bill could possibly use some editing, but we generally approve of this concept.

Warren E. Wild

Warren E. Wild, P.E.
ASPE, Legislative Committee

Copies to:
Senator Bill Ray
Senator Jalmar M. Kerttula
Representative Mike Miller
Representative Bob Bradley
Representative Bill Parker
Representative Jim Duncan
Representative Nels Anderson
Vern Akin, P.E.
Bill Whitnall, P.E.

SPA-490-V
Anchorage, Alaska 99507

March 10, 1976

All Senators and Representatives
Pouch V
Juneau, Alaska 99811

Gentlemen:

Reference is made to House Bill No. 814, "An act providing for the licensing of building designers". I am totally opposed to this legislation as it is not in the best interest of the citizens of our State.

I am a graduate engineer from the University of Alaska and am registered in Alaska as a Professional Engineer. I have for many years been in the position of Contracting Officer's Representative, administrating the design and/or construction of varied building programs. This past year, I supervised an office which administered a $77 million building construction program. These projects range from several thousand dollars to several million dollars and are located in both urban and rural areas of Alaska.

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For example, under HB 814, one individual would be permitted to design the foundations, structural system, electrical, mechanical, and all architectural features of a structure four (4) stories high of unlimited square footage and of any type of occupancy. I have never in my career met a man or woman so qualified and I hope I never meet one who thinks he is. Under existing law and practice, an Architect would design such a structure, utilizing the services of professionally registered consultants in the following fields (1) Soils and Foundations (2) Structural Engineering (3) Mechanical Engineering (4) Electrical Engineering. He might also utilize other consultants depending on the program but those listed are the absolute minimum. It is physically impossible for one individual to keep up with all the codes for these various specialized fields. If you disagree and do feel these "building designers" are that good then I say they would have no trouble in passing the examinations for professional registration as Engineers or Architects. So why the need for this bill?

The whole purpose of professional registration is to protect the public by insuring that designers have certain qualifications and are above reproach in the conduct of their responsibilities to their clients. It is a tough job which even at best is plagued with problems. To lower the standards only serves to increase the potential danger to our citizens.

Would you want to be in a four (4) story building designed by a nonprofessional during the next earthquake? Fire?

I urge that this bill not be passed.

Very truly yours,

Jerome R. George, P.E.

cc: Doug Ackley, Chairman
Board of Registration for Architects, Engineers and Land Surveyors

HB 818

AREA CODE 206
885-5821

WILLIAM G. WOODROW, P.E.
REGIONAL EXECUTIVE COORDINATOR

NATIONAL AUTOMATIC SPRINKLER AND
FIRE CONTROL ASSOCIATION, INC

BOX 106
REDMOND, WASHINGTON 98052

National Automatic Sprinkler and Fire Control Association, Inc.

P.O. BOX 719 • 45 KENSICO DRIVE • MT. KISCO, N. Y. 10549 • (914) 241-2400

March 29, 1976

Representative Bob Bradley
601 North Bragsaw
Anchorage, Alaska 99504

Dear Bob:

The members of the Legislature of the great State of Alaska should be commended for their forward looking posture they have assumed in the area of fire protection.

Recognizing that the members of the Legislature are willing to accept comments on pending legislation from industry as well as the fire protection community at large, we offer the following suggestion with respect to House Bills #818 and #841, for your consideration.

We suggest inserting the following at line 13 of both Bills:

> "This section does not apply to living units equipped with an approved automatic fire extinguishing system."

The reasons for this suggestion are many and we offer the following supportive documentation.

The National Safety Council some years ago issued the following statement:

> "Automatic Sprinkler Systems provide the greatest single 'Safety to Life' feature available in the fire protection field. Not only can they sound an alarm, but they will immediately start fighting the fire when activated. The automatic sprinklers are by far the most reliable and effective means of fire extinguishment. Other forms of protective equipment, as well as automatic alarms, have their special place, but none can be an effective substitute for an automatic sprinkler system."

It further states:

> "An automatic alarm system is <u>not</u> a substitute for an automatic sprinkler system and should be considered only as a <u>necessary minimum</u>."

After studying numerous fires the National Fire Protection Association has incorporated the following conclusion in the <u>Life Safety Code</u>:

> "Experience shows that automatic sprinklers properly installed and maintained, are the most effective of any of the various safeguards against loss of life by fire."

A representative from the National Fire Protection Association has stated:

> ". . . in the present state of the art, the most practical system available to perform the function of detection and control of a fire is the automatic sprinkler system".

In 1959 and 1960 the Ford Foundation's Educational Facilities Laboratories conducted a series of 228 fire tests in five Los Angeles schools. Among their conclusions were the following:

1) Untenable smoke conditions invariably preceded untenable heat conditions in every test. Any deaths which could have occurred (by pre-established criteria) would have resulted from smoke and toxic gases, a by-product of combustion.
2) In every instance where complete automatic sprinkler protection was tested neither untenable smoke nor untenable heat conditions existed anywhere in the building.
3) Automatic smoke and heat detectors (automatic alarms) did not protect against loss of life in 29% of the cases in which automatic alarms were tested.

The National Fire Protection Association in its January 1974 Fire Journal published an article entitled The Effect of Structural Characteristics on Dwelling Fire Fatalities by W. J. Christian, Consulting Engineer, Underwriters' Laboratories, Inc. From this analysis of one and two family dwelling fires nationwide, it was determined that:

". . . unconsciousness and incapacitation are the main reasons victims do not escape from dwelling fires".

It was also determined that:

"A large percentage of fatal dwelling fires (36%) involve victims who would have been unable to escape even if they had been warned in time and, apparently, control of the generation and transmission of toxic fire products would be required to improve the survival chances for such occupants."

Smoke detection devices certainly do provide a limited amount of fire warning, but an automatic sprinkler system accomplishes much more. Each sprinkler in the system serves a dual purpose; first, it responds individually to fire as a detector, and then as an expellant of water which is the extinguishing agent. And both acts are performed automatically.

It is my most sincere hope that you will review the above supportive documentation as it applies to the pending legislation. Should you have any questions, please do not hesitate to contact me.

Cordially yours,

William G. Woodrow

William G. Woodrow
Regional Executive Coordinator
(Alaska, Idaho, Oregon,
Montana, Washington, Wyoming)

WGW:jw

Copy to Representative Richard K. Urion

HB 820

STATE OF ALASKA
JAY S. HAMMOND, Governor
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE / POUCH D — JUNEAU 99801

February 24, 1976

Alaska State House of Representatives
Commerce Committee
In Session
Juneau, Alaska

Gentlemen:

Re: House Bill 820

This measure would permit the creation of a cooperative under Title 10 of Alaska Statutes for the purpose of engaging in the business of insurance.

The purpose for prohibiting the formation of a cooperative from engaging in the business of insurance under Title 10 is that the formation of entities which engage in the business of insurance is regulated under Title 21 by the Division of Insurance.

It is necessary, of course, that any entity which markets insurance even to its own members, must comply with the financial responsibility requirements, reporting requirements, rate law requirements and so forth.

As a matter of fact, in Title 21 there are already provisions which permit the creation of insurance mechanisms which, though not called cooperatives, are very similar. For example, a mutual insurance company is an insurance mechanism owned by the persons who purchased insurance. The policyholders are considered its members and entitled to participate in the distribution of earnings of the insuring entity.

A reciprical is likewise a mutual pooling and sharing of risks among all those that participate.

In short, the creation of a cooperative insurance mechanism is already authorized in Alaska law but it is now, and ought to remain, under Title 21 and regulated as all other insuring entities for the protection of policyholders.

Yours cordially,

Richard L. Block
Director

cc: Pam Knode, Information Officer
Represenative Kathryn Ostrosky

HB 821

02-001B (REV. 08-73)

MEMORANDUM State of Alaska

TO: R. D. Stevenson
Assistant to the Commissioner
Department of Revenue

DATE: February 20, 1976

FILE NO:

TELEPHONE NO:

FROM: Darrell D. Knox DDK
Deputy Director
Audit Division

SUBJECT: House Bill 821

After reviewing House Bill 821, Renter Credit, it has been noticed that several audit areas would be effected to properly administer the credit. The first area which should be noted is that the Individual Income Tax Return package would have to be expanded in two areas: (1) specific instructions would have to be given to taxpayers to explain the questions and exceptions of House Bill 821, and (2) a separate schedule would have to be added to the package to properly arrive at the correct credit. The renter schedule would have to note the months taxpayers lived in Alaska (43.20.032(b)(2)), which would also cause problems for matching separate returns as they are usually not filed or processed at the same time. The renter schedule would have to ask specific questions to determine qualifications and calculations of tax credit (43.20.032(d)). It should also be noted that to properly audit this credit, senior citizen property tax exemption and public assistance grant data must be maintained and matched to returns. This type of data would be difficult to verify and audit.

House Bill 821 does allow for spouses to claim credit which would be most difficult to audit due to the method of processing (43.20.032(b)(c)). Section 43.20.032(i) would require a complicated arrangement of the tax refund or payment section on the face of the tax return. It should be noted that if the desire to simplify tax returns is considered, this bill would create certain complications which are noted above.

Other areas which the bill does not address itself to are: (1) effective date and (2) the inclusion or exclusion of residents who purchase a mobile home but rent space in a trailer court, etc. In Alaska there are a considerable number of residents who reside in this manner.

Loss to the Treasury

It is estimated that approximately 30% of Alaska residents rent their residences, and that all renters in Alaska have adjusted gross income of $8,000 or above due to base wages earned.

Estimated cost to properly administer the bill:

1.	Forms cost per year	$1,800
2.	Tax Examiner position to review credit claimed	$16,600
3.	Additional auditor time required because of miscalculations of proper tax liability. One Revenue Auditor I half-time	$12,000
	TOTAL COST PER YEAR	$30,400

COMPUTATION ON LOSS TO TREASURY

	Estimated Returns Filed		Percent Claiming Renter Credit		Credit Claimed		Administrative Costs (A)		Total Cost
FY 77	220,000	x	30%	x	$45	+	$30,400	=	$3,000,400
FY 78	242,000	x	30%	x	$45	+	$33,400	=	$3,300,400
FY 79	266,200	x	30%	x	$45	+	$36,800	=	$3,630,500
FY 80	292,800	x	30%	x	$45	+	$40,500	=	$3,993,300
FY 81	322,100	x	30%	x	$45	+	$44,500	=	$4,392,850
							Total Revenue Loss & Administrative Cost to Treasury		$18,317,450

(A) - Inflation of 10% per year assumed.

If I can be of any further assistance in this matter, please feel free to contact me.

DDK/bjm

Attachment

THE LEGISLATURE OF THE STATE OF ALASKA
FISCAL NOTE
Second Session - Ninth Legislature

I. REQUEST
Bill No. House Bill 821
Title: Act relating to a renter credit granted under Alaska Net Income Tax
Requested by: McKinnon Date: 2-17-76
Return Date Requested: 2-23-76
Agency: Revenue Program: Audit Division

II. FISCAL DETAIL
Budget Request Unit(s) Affected: Audit Division

A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100	PERSONAL SERVICES		28.6	31.5	34.6	38.1	41.9
200	TRAVEL						
300	CONTRACTUAL		1.8	1.9	2.2	2.4	2.6
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	N/A	30.4	33.4	36.8	40.5	44.5

B. FUNDING: (Thousands of dollars)

GENERAL FUND	N/A	30.4	33.4	36.8	40.5	44.5
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	1.5/	1.5/	1.5/	1.5/	1.5/	1.5 /
MAN MONTHS (P./T.)	18/	18/	18/	18/	18/	18 /

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

N/A

IV. ATTACHMENTS

See memo attached dated February 20, 1976

V. DATE: 2-20-76 PREPARED BY: Darrell D Kopp

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

H/S 50

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S – JUNEAU 99811

March 30, 1976

The Honorable Bob Bradley
Chairman
House Commerce Committee
Alaska State Legislature
State Capitol Building
Juneau, Alaska

Re: Proposed Draft for CS for House Bill No. 821

Dear Mr. Bradley:

House Bill No. 821, an Act relating to a renter credit granted under the Alaska Net Income Tax, was introduced in the House on February 17, 1976 and was referred to the House Commerce and Finance Committee.

A fiscal note on the proposed legislation prepared by Darrell D. Knox, Deputy Director, Audit Division under the date of February 20, 1976 was furnished the House Commerce Committee.

According to the House Journal of March 22, 1976 a hearing was held on March 23, 1976 by the House Commerce Committee on March 23, 1976. A draft Committee Substitute was furnished to the Audit Division of the Department of Revenue for review.

For the consideration of the House Commerce Committee, I am enclosing a copy of a Fiscal Note and accompanying memorandum prepared by Darrell D. Knox, Deputy Director, Audit Division along with a copy of the draft for a Committee Substitute for House Bill No. 821.

If you or any members of the House Commerce Committee have any questions on the material submitted, please contact the writer by telephone at 465-2397 and I will contact Mr. Knox for further information or testimony at a hearing.

Very truly yours,

R. D. Stevenson

R. D. Stevenson
Special Assistant

Enclosure

cc: Mark Kumbe
House State Affairs Committee
for The Honorable Joseph McKinnon
Sponsor, House Bill No. 821

Darrell D. Knox
Deputy Director
Audit Division
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
FISCAL NOTE
Second Session - Ninth Legislature

I. REQUEST
Bill No. CS for House Bill 821 (Draft)
Title: An Act relating to a renter credit granted under Alaska Net Income Tax
Requested by: _____ Date: _____
Return Date Requested: _____
Agency: Revenue Program: Audit

II. FISCAL DETAIL
Budget Request Unit(s) Affected: Audit Division

A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100	PERSONAL SERVICES	N/A	28.6	31.5	34.6	38.1	41.9
200	TRAVEL						
300	CONTRACTUAL		.6	.6	.7	.7	.8
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	N/A	29.2	32.1	35.3	38.8	42.7

B. FUNDING: (Thousands of dollars)

GENERAL FUND	N/A	29.2	32.1	35.3	38.8	42.7
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	/	1.5 /	1.5 /	1.5 /	1.5 /	1.5 /
MAN MONTHS (P./T.)	/	18 /	18 /	18 /	18 /	18 /

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

N/A

MEMORANDUM State of Alaska

TO: R. D. Stevenson
Special Assistant

DATE: March 30, 1976

FILE NO:

TELEPHONE NO:

FROM: Darrell D. Knox DDK
Deputy Director
Audit Division

SUBJECT: Draft CS for HB 821

After reviewing the draft CS for HB 821, Renter Credit, it has been noticed that certain audit areas would be affected to properly administer the credit. The first area which would be affected is the Individual Income Tax Return package which would have to be exparded in the area of specific instructions to properly explain the provisions of HB 821.

Second, section 43.20.032(b)and(c) would require the matching of returns or the reviewing of taxpayer residence which would be difficult to properly audit. This is due to two reasons; (1) separate returns are usually not filed or processed at the same time and (2) specific residences would have to be audited as a great number of individuals in Alaska use a Post Office Box which does not lend itself to a proper verfication of legal residence.

Loss to the Treasury

It is estimated that approximately 30 percent of Alaska residents rent their residences.

Estimated cost of properly administer the bill:

1.	Forms cost per year	$ 600
2.	Tax Examiner II position to review credit claimed	16,600
3.	Additinal auditor time required to properly audit credit claimed	12,000
	TOTAL COST PER YEAR	$29,200

COMPUTATION ON LOSS TO TREASURY

FY	Credit Cost		Administrative Cost		Total Cost
78	$2,144,550	+	$29,200	=	$2,173,750
79	$2,359,050	+	$32,100	=	$2,391,150
80	$2,594,700	+	$35,300	=	$2,630,000
81	$2,855,100	+	$38,800	=	$2,893,900
82	$3,139,950	+	$42,700	=	$3,182,650

Rb3072

Total Revenue Loss and Admin. Cost to Treasury	$13,093,350	+	$178,100	=	$13,2, ,450

Details of the breakdown by adjusted gross income for the above data, available upon request.

The original HB 821 is revised to reflect the recent information on Adjusted Gross Income. Fiscal years are also changed to reflect effective date of January 1, 1977.

FY	Credit Cost		Administrative Cost		Total Cost
78	$2,685,900	+	$30,400	=	$2,716,300
'9	$2,955,300	+	$33,400	=	$2,988,700
80	$3,250,500	+	$36,800	=	$3,287,300
81	$3,575,250	+	$40,500	=	$3,615,750
82	$3,932,250	+	$44,500	=	$3,976,750
Total Revenue Loss and Admin. Cost to Treasury	$16,399,200	+	$185,600	=	$16,584,800

If I can be of any further assistance in this matter, please contact me.

DDK:lc

Send copy of Fiscal Note To State Affairs Mike Kimbe

CS HOUSE BILL NO. 821

*Section 1. AS 43.20 is amended by adding a new section to read:

Sec. 43.20.032. RENTER CREDIT. (a) For the purpose of calculating the tax payable under this chapter, a qualified renter shall be allowed a credit against the tax, in the amount indicated on the following table:

If adjusted gross income is:	The credit is:
less than $7,000	$45
$7,000 - 9,999	40
10,000 - 12,999	35
13,000 - 15,999	30
16,000 - 19,999	25
20,000 and up	0

(b) Except as provided in (c) of this section, a husband and wife shall receive but one credit under this section. If the husband and wife file separate returns, the credit may be taken by either, or equally divided between them.

(c) If a husband and wife each maintained a separate place of residence and resided in this state during the entire taxable year, each spouse will be allowed the full credit.

(d) For purposes of this section,

(1) "qualified renter" means an individual who

(A) on March 1 of the taxable year was a resident of this state, as defined in sec. 340 of this chapter; renting and occupying premises in this state which constituted his principal place of residence; and

(B) did not purchase and move into property purchased for use as principal residence during the taxable year;

(2) "qualified renter" does not include

(A) an individual who, on March 1 of the taxable year, rented and occupied premises which were exempt from property taxes;

(B) an individual whose principal place of residence is with any other person who claimed the individual as a dependent for income tax purposes.

(e) The credit allowed a mobile home owner who rents the space upon which the mobile home is situated is one-half the credit otherwise allowable under (a) of this section.

(f) Every person claiming the credit provided in this section shall, as part of the claim, and under the penalty of perjury, furnish all the information the Department of Revenue prescribes on a form supplied by the department.

(g) The credit provided in this section shall be claimed on returns as defined in sec. 30 of this chapter.

(h) For purposes of this section, "premises" means as it is defined in sec. 34.03.360(10).

*Sec. 2. This Act takes effect January 1, 1977.

Testified HB 821

Gary Jenkins, Dir of Audit, Dept of Revenue

2-23-76

H/B 823

"An Act providing for state-chartered credit unions."

COMMITTEE REPORT

2/26/76 HOUSE JUDICIARY

Mr. Speaker: Date _____

The Committee on COMMERCE has had SS HB 823 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

(X) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

Rudd recommends: do not pass

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

March 3, 1976

MEMORANDUM

TO: Bob Bradley

FROM: Terry Berman
Administrative Assistant

SUBJECT: HB 823, Credit Unions

Credit unions were first established by law in the United States in 1909 under state law in Massachusetts, following an investigation by the State Banking Commissioner there who found several informal employee state associatic in operation. He felt that these ought to be encouraged.

A Federal Credit Union Act was enacted in 1934, defining a credit union as "a cooperative association organized for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes."

Currently, there are credit union laws in forty-four states. No such law exists in Alaska. The state charters account for 45% of the credit unions in the United States indicating the relative strength of the State system.

SSHB 823 provides for state charters of credit unions that would come under the Department of Commerce. It is less restrictive than the federal act, as all existing state laws are, allowing credit unions to serve their members to even a greater measure. A credit union is distinct from a financial institution in that it is not pursuing profits and is "a dedicated group of people who believe that by this method a better life can be provided for all those in the group who join the credit union."

Since their expenses are low due to volunteer leadership, they can afford to make the types of loans that may be passed over by commercial banks because the loans are not the most profitable. Without credit unions, many parties who are considered good risks are not able to obtain loans.

Perhaps the most important service of a credit union is the education of the members in the management and control of their own money. Allowing the credit union to provide extensive services reinforces this. Since the motivation of a credit union is to be helpful to its members instead of to make profits, credit unions are not apt to take risks which endanger their solvency. In fact, because of social responsibility, they tend to stay within their means. This results in expansion of services coming with expansion of the credit union's assets.

State credit union legislation will allow greater access to credit by individuals and small business organizations in Alaska. It gives greater freedom to credit unions in choosing exactly how they will serve their members.

March 16, 1976

Alaska Credit Union League
3500 Eide Street
Anchorage, Alaska 99502

Attention: Mr. William Samples

Dear Mr. Samples:

Re: SS HB 823 - State Credit Union Law

It was a pleasure talking to you and Messrs. Wilson and Vlahovich and Mrs. Pearson about this bill on the afternoon of March 4. At this point, I cannot tell you what this Department's position will be, but I want to express my appreciation of the clarifications you provided me. The changes you've suggested, including eliminating the central credit union, the state credit union insurance fund, and the credit union advisory board, satisfy a number of our objections. We will give your proposed redraft prompt consideration.

Sincerely,

Miles S. Schlosberg
Director

MSS:bjl

cc: Langhorne A. Motley, Commissioner, Department of Commerce and Economic Development

STATE OF ALASKA

Inter-Department Route Slip

TO:
MAIL STATION NUMBER 3100

DEPARTMENT Hwys Commerce

ATTENTION Terri Berman

☐ Approval	☐ Note & Return
☐ Signature	☐ Initial & Return
☐ Comment	☐ Return As Requested
☐ Contact Me	☐ Return For Approval
☐ Prepare Reply	☐ Necessary Action
☐ For Your File	☐ Your Information

Remarks:

Per Terri
Jud. (Copy for File)

FROM:
MAIL STATION NUMBER 0800

DEPARTMENT Commerce

BY Pam Brad DATE 3/22

02-002 (REV.10/73)

THE LEGISLATURE OF THE STATE OF ALASKA
FISCAL NOTE
Second Session - Ninth Legislature

I. REQUEST
Bill No. CSHB 823
Title: An Act Providing for State Chartered Credit Unions
Requested by: McKinnon Date: March 15, 1976
Return Date Requested: March 15, 1976
Agency: Commerce & Economic Dev. Program: Public Protection

II. FISCAL DETAIL
Budget Request Unit(s) Affected: Banking, Securities, Small Loans & Corp.

A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100	PERSONAL SERVICES		166.1	215.2	236.7	260.3	286.3
200	TRAVEL		6.0	8.8	9.7	10.7	11.8
300	CONTRACTUAL		16.5	9.9	11.0	12.1	13.3
400	COMMODITIES		1.5	1.6	1.8	2.0	2.2
500	EQUIPMENT		4.0	-0-	-0-	-0-	-0-
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		194.1	235.5	259.2	285.1	313.6

B. FUNDING: (Thousands of dollars)

GENERAL FUND		194.1	235.5	259.2	285.1	313.6
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	/	6 /	1/	/	/	/
MAN MONTHS (P./T.)	/	72 /	12/	/	/	/

III. Analysis

Fiscal Year 77

Personal Services

1 Supervisor Range 21A Sal & Ben 34,209=	34,209
4 Examiners Range 19A Sal & Ben 29,606=	118,475
1 Clerk Typist II Range 7A Sal & Ben 13,475=	13,475

Assuming that ½ of the 37 Federal Credit Unions in Alaska will convert to state charter. This would give state credit unions approximately, $165.6 Million in total assets. Conversion & chartering will be nominal the first FY and it is believed the above personnel can manage. Examinations will have to be performed on all credit unions the second year thus increasing travel along with the addition of one new person to handle the investigation and chartering of new offices. It normally takes 4 men 15 days per $10 Million of assets to perform an examination. One supervisor and an assistant supervisor will be needed in the office for reviewing reports, investigating and chartering, therefore total examining force would be 6 persons.

Travel 6,000

Second year travel was increased by 2.0 plus 10% as examination & investigating activity will pick up. 10% increase used there-after.

Contractual 16,500

First year contractual expenditures estimated at 9.0 an additional 7.5 should be allocated to provide for a Credit Union Supervisor of another state to come under contract to draft regulations and supervise the initial set up of a Credit Union Section a three month period should be sufficient time to accomplish this. 10% inflation FY 78/81

Commodities 1,500

10% inflation for FY 78-81

Equipment 4,000

Total Fiscal Year 77.....194,108

HB 825

Alaska State Legislature

House

JUNEAU ALASKA

March 17, 1976

MEMORANDUM

TO: Representative Bob Bradley

FROM: Terry Berman
Administrative Assistant

SUBJECT: House Bill No. 825

A committee substitute for HB 825 was drafted after reviewing the Federal regulations on insider loans brought to the attention of the Commerce Committee by the Director of Banking, Miles Schlosberg. Contrary to the testimony of Mr. Schlosberg, the federal regulations are not the same nor do they achieve the same results as HB 825.

They differ in three respects:

1. The federal regulations only apply to commercial banks. HB 825 includes mutual savings banks and savings and loans associations.

2. The federal regulations require records of loans to be maintained by the bank. HB 825 requires the reporting of such loans directly to the Department of Commerce.

3. Federal regulations require the reporting of loans only if they exceed a certain amount (as much as 100,000 dollars if a bank's assets exceed 500 million dollars). HB 825 requires that all insider loans be reported.

The committee substitute was prepared to make the bill correspond more closely in definition with the federal regulations.

Alaska State Legislature

House

JUNEAU ALASKA

March 1, 1976

MEMORANDUM

TO: Rep. Bob Bradley, Chairman
House Commerce Committee

FROM: Terry Berman TB
Administrative Assistant

SUBJECT: House Bill 825

In recent weeks, the Federal Reserve Board has been calling for tighter control over banks. This comes with news of the failure of one of the nation's largest banks, Hamilton Banschares of Tennessee and the resulting losses, which were substantial, to several other large banks, scattered across the country. There have been two other bank failures of note in recent years, Franklin National Bank of New York and U. S. National Bank of San Diego, both among the top 300 in the nation. These failures were due partially to incomplete examination by regulatory bodies.

The Federal Reserve Board has pointed to the inability of state regulatory bodies to keep a close enough watch over its banks. HB 825, which asks that banks disclose loans to insiders, is one step toward correcting this.

Ever since the bank failures of the thirties, governments have kept a close watch on insider transaction, and "the American Bankers Association has supported efforts to curb insider abuses provided the burdens are not disproportionate." Some states have even prohibited loans to insiders. At present only salaried officers and employees have to have loans over $5,000 secured. The present law places no restrictions on unsalaried officers, who are also insiders.

Thus, there are several loopholes. Loans may be taken out through a spouse or a business organizations. This bill asks that such loans be reported to the Department of Commerce, so that they may be taken into account in an examination of the bank. This bill does not restrict such loans, but allows the department access to information which could be vital in assessing the soundness of a bank.

If we weigh the small cost of disclosure of such information, which could be valuable even to the bank itself, against the heavy lossess to shareholders, borrowers, depositors, and the community itself. We can see the value of such legislation. It is vital that we protect the community against potential mismanagement.

HB826

"An Act relating to discounts in retail sales."

COMMITTEE REPORT

2/17/76

HOUSE

Mr. Speaker: Date 11/1/26

The Committee on COMMERCE has had HB 826

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

(X) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

File with Fabian bill

1. ISSUES INVOLVED IN TWO-TIER PRICING

What Are Third-Party Credit Cards?

Third-party credit cards are issued to consumers by companies that guarantee payment of the selling price--minus a service fee--to the merchant who accepts a credit card for purchase of goods or services.

There are two major kinds of third-party credit cards: "travel and entertainment cards" (T and E) and "bank cards." T and E cards (such as American Express, Diners Club, Carte Blanche) are used mainly in restaurants and hotels. In contrast, bank cards (such as BankAmericard and Master Charge) are largely administered by local banks and are accepted by a wider range of merchants. In both cases, a third party performs certain administrative functions for the consumers who want to use the card and the merchants who want to accept it.

How Do Third-Party Credit Cards Increase the Selling Price?

Merchants who accept either type of third-party credit card agree to pay a service fee to the credit-card issuer or administering bank--a fee usually ranging from 2 percent to 5 percent (and sometimes higher) of the selling price. This fee, like other business costs, is reflected in the price that merchants charge their customers. Since the selling price is the same for all customers, shoppers pay for the costs of credit whether or not they use a credit card.

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What Is the Difference Between Third-Party Credit Cards and Charge Cards Issued by the Merchants Themselves?

Some retail stores maintain their own charge-account systems, which customers may use to charge purchases bought from these retailers. Unlike third-party credit cards (such as American Express or Master Charge), these in-house charge systems involve no one else in the credit transaction beyond the retailers and their charge customers.

In-house charge systems can generate profits for the retailers, since it is the retailers themselves--and not a third party--who collect any interest that may accrue on credit sales. Many merchants, however, either do not have or do not rely exclusively on their own charge plans. It is primarily these merchants who might be persuaded to give discounts for cash purchases.

Why Haven't Most Merchants Offered Discounts for Cash Purchases in the Past?

Before passage of the FCBA (see page 8), contracts between participating merchants and the credit-card company (for T and E cards) or the administering bank (for bank cards) often included provisions that prohibited merchants from charging a higher price to credit-card customers than to cash customers. Under such contracts, merchants could not offer discounts for cash payment, even if they wanted to.

Why Were Such Contract Restrictions Unfair to Cash Customers?

A credit-card customer receives the special privilege and convenience of paying for a purchase weeks or months later. But

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because the same selling price is used for all customers, cash customers subsidize the credit-card customers' privilege of postponing payment. Moreover, a cash customer saves merchants money because merchants keep the full amount of a cash sale. With a cash sale, they don't have to deduct the service fee they pay to a credit-card company or bank for a credit-card transaction--and they don't have all the paperwork that goes with it.

In short, cash customers get less and cost a merchant less. It is only fair that cash customers should pay less.

Don't Merchants "Absorb" the Cost of Credit Rather Than Pass It On to Their Customers?

Although the cost of credit is not shown on the price tag, it is an integral part of merchants' pricing decisions. It is taken into account in setting prices as part of the overhead--the general cost of operating a business. Merchants compute the selling price necessary, given competitive conditions, to assure an acceptable profit or rate of return on their investment. There can be no absorption of credit costs without passing them on to the customer, unless merchants reduce their profit margins, which is not likely.

Won't Merchants Just Raise Their Prices and Then Discount to the Old Price?

Some may. But most will not, because conditions in competitive markets discourage them from increasing prices above the already prevailing market level. Merchants who raise their prices above that level risk losing business to their competitors.

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What Will Happen to Prices If Two-Tier Pricing Becomes Widespread?

If the costs of third-party credit-card purchases are borne only by those who use third-party credit cards, the price of such a credit purchase may be somewhat higher than the prices under today's uniform price system. However, the price for a cash purchase would probably be somewhat lower.

Won't Merchants Who Charge More for Credit Purchases Lose Business?

When some merchants grant discounts for cash payments and others do not, it is possible that those granting discounts for cash may lose some credit-card customers. Those merchants will also lose the extra income they formerly derived from cash customers under the old single-price system. However, those losses could be offset by a substantial increase in the number of cash-paying customers, particularly if the availability of cash discounts is well publicized.

Why Would Merchants Want to Give Discounts for Cash Purchases?

Merchants who give discounts to cash customers may find that their sales volume increases significantly as a result of their discount policy. (For example, a 1974 survey sponsored by the Continental Illinois National Bank and Trust Company of Chicago found that 70 percent of consumers surveyed would pay cash instead of using credit if merchants offered discounts for cash purchases.) What's more, money from cash sales is immediately available to merchants without the time lag that results when merchants must forward their sales slips to credit-card issuers and await

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reimbursement. And with cash sales, merchants are relieved of the extra paperwork.

2. THE NEW LAW

In 1974, Consumers Union sued American Express and a Maryland bank administering BankAmericard. Consumers Union sought a ruling that provisions of the contracts between the third-party credit-card issuers and merchants that prohibited merchants from granting lower prices for cash were price-fixing arrangements in violation of antitrust laws. The lawsuits were settled, with American Express and the bank agreeing to notify their merchants that the challenged restrictions were no longer in effect. Similar agreements were arranged, in lieu of litigation, with Carte Blanche and with Central Charge Company and NAC Charge Plan (credit-card issuers in the Washington, D.C., area).

Although the Consumers Union lawsuits established the principle that merchants cannot be prohibited from adopting two-tier pricing, there remained two major legal obstacles to the widespread availability of cash discounts. First, other third-party credit-card issuers were not affected by the settlements. Second, merchants were hesitant to institute a two-tier pricing system because of concern that the granting of discounts to cash customers, while charging higher prices to those using third-party credit cards, might trigger the requirements of the Truth-in-Lending Act.

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The Fair Credit Billing Act (FCBA), which took effect on October 28, 1975, is intended to remove those two legal obstacles. Section 167 of the FCBA includes two important provisions:

First, the law declares unlawful all restraints, by contract or otherwise, of a merchant's freedom to use a two-tier pricing system for cash and credit customers. Thus the substance of the Consumers Union lawsuits has become law and now applies to all third-party credit-card issuers.

Second, the law states that the requirements of the Truth-in-Lending Act are not applicable to cash discounts of 5 percent or less. This exemption applies if the availability of discounts of 5 percent or less is conspicuously disclosed on the premises and is available to all prospective customers.

After FCBA

Despite these victories, another obstacle still remains: Even with the passage of the FCBA, merchants are merely permitted to give discounts to cash customers; they are not required to do so. It is up to consumers to convince merchants that granting cash discounts is in the merchants' own interest.

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HB 827

"...n Act relating to landlord-tenant relations."

COMMITTEE REPORT

HOUSE

2/17/76

Mr. Speaker: Date 2/3/76

The Committee on MERCE has had HB 827 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

(X) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

P. Bradley — Do Pass

Members NOT concurring in the Majority report:

Shore recommends: Do Not Pass

H Fischer recommends: Do not Pass

M Ki recommends: Do not pass

Lee Fuller recommends: Do Not

_____ recommends:

P. J. Bradley Chairman

AMENDMENT

OFFERED IN THE HOUSE: BY: Commerce Committee

To: _____ HOUSE BILL No. HB 827

SENATE BILL No. _____

PAGE: _____ LINE: _____

Line 21 on Page 1, reinsert the word "written".

Line 13, on Page 2 reinsert the word "written".

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
315 FIFTH STREET, SUITE 8
JUNEAU, ALASKA 99801
TELEPHONE 586-6425
February 24, 1976

MEMORANDUM

TO: Rep. Bob Bradley
Commerce Committee

FROM: Don Clocksin, ALSC

SUBJECT: HB 827--Landlord-tenant amendments

- -

This bill contains a number of adjustments and improvements in the Uniform Residential Landlord and Tenant Act which was first adopted in 1974 (Ch. 10, SLA 1974). These proposed amendments are based upon two years of extensive use of the act and careful analysis of how it would work better.

Section 1. In the section governing sublease by a tenant, the tenant is required to reveal, among other things, his/her proposed sublessee's marital status. Since requiring that information conflicts with the newly adopted amendments to the anti-discrimination statute, it should be repealed. The new amendments, in AS 18.80.240(3) (Chapter 104, SLA 1975), prohibit inquiries into marital status.

Section 2. This section reduces the maximum deposit from two to one month's rent. After seeing the section on deposits in action, we have learned that limiting security deposits and prepaid rent to two months' rent is not sufficient. It does not protect tenants. In the typical situation, a landlord charges not only a security deposit but also a month of prepaid rent. If the monthly rental were $350, the total payments required just to move in would be $1050.

$	350--First month's rent
	350--Last month's rent (prepaid)
	350--Security deposit
$1,050	

Few people can pay that much at one time. Besides, such large amounts of security are not necessary when housing is so tight that a landlord need not worry about his/her dwelling staying vacant very long.

Section 3. This section creates a penalty for failing to set the tenant's deposit aside in a trust account and failing to tell the tenant how to get the money back. Through an oversight, the penalty section (subsection d) referred only to subsection (b) but not to (c).

Section 4. (A) On pg. 1, line 18, a typographical error is corrected.

(B) On pg. 1, line 21, the obligation to give written notice of a defect is eliminated. In my experience, many many tenants give oral notice of defects, but the landlord still will not fix something defective. Many landlords in fact have notice of defects but never have to fix the problem because of this overly technical requirement.

(C) On pg. 1, lines 23-28, the repair and deduct remedy is clarified. Where the old language simply authorized a deduction from rent of the costs of obtaining essential services the landlord has failed to provide, the subsection as rewritten would specify that labor and materials used by the tenant are compensable and that, if the tenant performs the work himself/herself, the state minimum wage level is recoverable.

(D) On pg. 2, lines 4-5, the section clarifies that the landlord warrants that the dwelling is habitable. If it is not, and is in fact worth less because of serious defects, the rent owed is reduced to reflect the substandard conditions. The act already established this principle, but confusion has occurred about how the principle of warranty of habitability is applied. The amendment will resolve the confusion.

Section 5. This section also eliminates the requirement of written notice. It is unfair if a landlord actually knows of a defect and avoids his/her obligation to fix it because of a technicality. See Section 4(b) above.

Section 6. This section increases the penalty for an illegal lock-out to $1000 or one and one-half times the actual damages, whichever is greater. The section used to allow only one and one-half times actual damages. One of the greatest problems we are still having is with illegal evictions. It occurs by shutting off heat or lights, changing locks while the tenant is gone, removing furniture, and in some cases, physical violence. The common factor is that all of these evictions are done in violation of the law and deprive the tenant any due process of law. The landlord who evicts a tenant in one of these ways deserves no protection at all. There is never any excuse for such cruel, arbitrary conduct.

However, because the damages which can be recovered in a law-suit are hard to prove, the landlord can usually evict illegally with little fear of economic penalty. In a poll of Anchorage attorneys, approximately nineteen answered the question of whether, under the present law, they would represent an illegally evicted tenant who was unable to pay for their services. Only one said he would, the others claiming that the penalty would have to be increased considerably before they would help. The amendment seeks to discourage lock-outs and encourage private lawyers to represent victimized low and middle income tenants.

Section 7. This section makes a violation of this act a violation of the Unfair Trade Practices and Consumer Protection Act. Many, many people who are injured by a violation of this landlord-tenant law are too poor to hire a private lawyer and too rich for help from Alaska Legal Services Corp. For them, there is little they can do unless the Attorney-General's Consumer Protection office can step in on their behalf. The Consumer Protection office, I understand, is still inundated by landlord-tenant problems. They are forced to turn them away because they have no jurisdiction.

An interesting statistic is found in the First Report of the Ombudsman--1975 (Feb. 1976). According to that report the Ombudsman received a surprisingly high number of landlord-tenant problems. Of all inquiries, about 6% related to a private landlord-tenant problem, even though the Ombudsman deals only with state agencies. This means, I think that people aren't getting help elsewhere and that they expect state government to provide some assistance. The Consumer Protection office is best able to help.

DEC:btg

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
315 FIFTH STREET, SUITE 8
JUNEAU, ALASKA 99801
TELEPHONE 586-6425

H.B. 684.
*1. Tieing arrangement - illegal
2. Bring under Consumer Protection

MEMORANDUM

TO: Reps. Bradley and Parker

FROM: Donald E. Clocksin DEC

RE: HB 827--Landlord-Tenant Amendments

DATE: March 15, 1976

Fill

This bill contains a number of adjustments and improvements in the Uniform Residential Landlord and Tenant Act which was first adopted in 1974 (Chapter 10, SLA 1974). These proposed amendments are based upon two years of extensive use of the Act and careful analysis of how it would work better.

Section 1. This amendment makes the Landlord and Tenant Act consistent with the anti-discrimination statute. In the section governing sublease by a tenant, the tenant is required to reveal, among other things, his/her proposed marital status. Since requiring that information conflicts with the newly adopted amendments to the anti-discrimination statute, it should be repealed. The new amendments, in A.S. 18.80.240(3) (Chapter 104, SLA 1975), prohibit inquiries into marital status.

Section 2. This section reduces the maximum deposit from two to one month's rent. After seeing the section on deposits in action, we have learned that limiting security deposits and prepaid rent to two months' rent is not sufficient. It does not protect tenants. In the typical situation, a landlord charges not only a security deposit but also a month of prepaid rent. If the monthly rental were $350, the total payment required just to move in would be $1,050.

$	350--First Month's Rent
$	350--Last Month's Rent
$	350--Security Deposit
$1,050	

Few people can pay that much at one time. Besides, such large amounts of security are not necessary when housing is so tight that a landlord need not worry about his/her dwelling staying vacant very long. By charging last month's rent or a damage deposit, the landlord is adequately protected. They always have the right to collect for damage which exceeds the deposit.

Section 3. This section creates a penalty for failing to set the tenant's deposit aside in a trust account and failing to tell the tenant how to get the money back. Through an oversight, the penalty section (Subsection D) referred only to Subsection B but not to Subsection C. The purpose of the trust account provision is to protect the tenant's money from the landlord's other creditors.

Section 4.

(A) On page 1, line 18, a typographical error is corrected.

(B) [The change on page 1, line 21, was deleted by the Commerce Committee amendment.]

(C) On page 1, lines 23-28, the repair and deduct remedy is clarified. Where the old language simply authorized a deduction from rent of the costs of obtaining essential services the landlord has failed to provide, the subsection as rewritten would specify that only labor and materials used by the tenant are compensable and that, if the tenant performs the work himself/herself, the state minimum wage level is recoverable.

(D) On page 2, lines 4-5, the section clarifies that the landlord warrants that the dwelling is habitable. If it is not, and is in fact worth less because of serious defects, the rent owed is reduced to reflect the substandard conditions. The Act already says this, but confusion has occurred about how the principle of warranty of habitability is applied. The amendment will resolve the confusion.

Section 5. [This section was deleted by Commerce Committee amendment.]

Section 6. This section increases the penalty for an illegal lockout to $1,000 or one and one-half times the actual damages, whichever is greater. The section used to allow only one and one-half times actual damages. One of the greatest problems we are still having is with illegal evictions. It occurs by shutting off heat or lights, changing locks while the tenant is gone, removing furniture, and in some cases, physical violence. The common factor is that all of these evictions are done in violation of the law and deprive the tenant any due process of law. The landlord who evicts a tenant in one of these ways deserves no protection at all. There is never any excuse for such cruel, arbitrary conduct.

However, because the damages which can be recovered in a lawsuit are hard to prove, the landlord can usually evict illegally with little fear of economic penalty. In a poll of Anchorage attorneys, approximately nineteen answered the question of whether, under the present law, they would represent an illegally evicted tenant who was unable to pay for their services. Only one said he would, the others claiming that the penalty would have to be increased considerably before they would help. The amendment seeks to discourage lockouts and encourage private lawyers to represent victimized low and middle income tenants.

Section 7. This section makes a violation of this act a violation of the Unfair Trade Practices and Consumer Protection Act. Many, many people who are injured by a violation of this landlord-tenant law are too poor to hire a private lawyer and too rich for help from Alaska Legal Services Corporation. For them, there is little they can do unless the Attorney General's Consumer Protection office can step in on their behalf. The Consumer Protection office, I understand, is still inundated by landlord-tenant problems. They are forced to turn them away because they have no jurisdiction.

An interesting statistic is found in the First Report of the Ombudsman--1975 (February, 1976). According to that report the Ombudsman received a surprisingly high number of landlord-tenant problems. Of all inquiries, about 6% related to a private landlord-tenant problem, even though the Ombudsman deals only with state agencies. This means, I think, that people aren't getting help elsewhere and that they expect state government to provide some assistance. The Consumer Protection office is best able to help.

Possible Objections to HB 827

1. We worked out a compromise in 1974 which shouldn't be tampered with now. Answer: Senator Zeigler said in 1974 that we should try the Act for two years and, if changes are needed, come back to the Legislature. Two years of extensive experience with the Act has revealed problems. It's not cast in concrete.

2. By creating a penalty for failing to deposit a security deposit in a trust account, you're penalizing only a technical violation. Answer: The section requiring a trust account is preventative - to protect the deposit, which is the tenant's money, in case the landlord goes

bankrupt. Many landlords in Anchorage are violating Subsection C of A.S. 34.03.070 by refusing to protect the tenant's money.

3. The repair and deduct remedy takes away the landlord's right to control his/her own property. Answer: That right does not include the right to refuse to fix serious defects. If the landlord, after being given a chance to fix an "essential service," refuses to do it, the tenant, who is suffering, should be allowed to. Besides, the amendments on page 1, lines 23-28 don't really increase the tenants' right. They only specify that the costs cannot exceed the cost of labor and materials.

4. A $1,000 penalty for a lockout is too high. Answer: There is no excuse for these lockouts or utility shut-offs. They continue to occur often and a high penalty is needed to stop them. It's this or making it a crime. Lots of other laws have minimum penalties (state Consumer Protection Act--$200 minimum; state Anti-Trust Act--treble actual damages; federal Truth-In-Lending Act--$100 to $1,000). The "good" landlord, who we should try to protect, does not use lockouts or utility shut-offs. A higher penalty will make more lawyers available to middle-income tenants.

5. What is it going to cost to extend the Consumer Protection office's jurisdiction to landlord-tenant disputes? Answer: About $50,000 next year. The intent is to allow that office to deal with patterns of illegal activity, not to take the place of private attorneys for all disputes. Since the Consumer Protection office has the discretion to determine which illegal activities need the most attention, the fiscal impact of the bill could vary considerably, depending on what cases they get involved with. The Consumer Protection offices are already receiving lots of complaints, so a portion of the current budget is going to landlord-tenant disputes already. We figure roughly that if we could add an attorney in Fairbanks (which has no resident Consumer Protection attorney) and an attorney in Anchorage, that would be enough to carry the office through the first year. That's about $50,000. Then we'll know more about the need for more staff. That's how we handled the staffing question on the anti-trust bill we passed last session.

DEC:pp

HB 828

" An Act relating to landlord tenant relations; and amending Rules 4(b), 77 and 85, Rules of Civil Procedure."

COMMITTEE REPORT

2/17/76

JUDICIARY

HOUSE

Mr. Speaker: Date _____

The Committee on COMMERCE has had HB 828 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
315 FIFTH STREET, SUITE 8
JUNEAU, ALASKA 99801
TELEPHONE 586-6425
February 24, 1976

MEMORANDUM

TO: Rep. Bradley - Commerce

FROM: Don Clocksin, ALSC

SUBJECT: HB 828 - Landlord-tenant evictions

- -

1. Present Law.

Under the present law a landlord can evict a tenant by giving a written notice giving him/her 10, 20, or 30 days to move depending on the circumstances. There are different, and conflicting notice provisions in various parts of the present law. Once the period has run and the tenant does not move, the landlord may file a lawsuit in court and serve a copy of the lawsuit on the tenant. The trial and the decision by the judge on whether the tenant must move comes two to four days after the suit is filed. The tenant has no time to prepare a defense and is, in effect, not allowed a defense.

2. What this Bill Would Do.

This bill amends the Forcible Entry and Detainer Act in order to make it consistent with the Landlord-Tenant Act. It clarifies what notices must be given and creates a new, fairer procedure for evicting a tenant.

Section 1. This section states simply that eviction of a residential tenant (not a commercial tenant or one who claims he/she owns the property) will be done under the sections set out below and AS 34.03.190 of the Landlord-Tenant Act. That latter section authorizes a judge to order a tenant to pay rent into court, to order repairs made, etc., as part of an eviction.

Section 2. This section reorganizes the provisions for giving notice to a tenant to move. The problem is that presently AS 09.45.090 conflicts with the notice provisions of the Landlord-Tenant Act (AS 34.03.170, .220(a), and .290). There are no substantial changes in the present law in this section.

Section 3. This section again makes the Forcible Entry and Detainer (eviction) statute consistent with the

Landlord-Tenant Act. It also adds language to assure that the tenant gets actual notice that he/she must move.

Section 4. Present AS 09.45.110 provides a 10 day notice to move where a tenant does not leave at the end of an agreed period of time or breaches the leave. It also creates an agricultural exception. This section is not necessary since subparagraphs (3) and (4) of AS 09.45.090 (as amended; see section 2 above) already provide for notice. The agricultural exemption conflicts with the one in AS 09.45.496(b), Which was adopted as part of the 1974 Landlord-Tenant Act.

Section 5. This section establishes in which court the eviction action must be brought and provides that the procedures set out in this article are the exclusive remedy for evicting a tenant.

Section 6. This section amends the procedure to eliminate the requirement that a summons and complaint be served between two and four days before trial. The automatic bond requirement for a postponement is repealed. The new section requires that the summons state the nature of the lawsuit, the place, date and time of trial, and the right to a continuance for good cause.

Section 7. AS 09.45.130 is repealed. It presently provides that a tenant cannot be evicted while rent has been paid in advance. An eviction notice is providedprior to the rent due date if rent is paid in advance. The section is repealed because it conflicts with the notice provisions of section .090.

Section 8. Several new sections are added to AS 09.45 creating a new eviction procedure.

Sec. 09.45.121: Motion for Immediate Possession.
Once a suit to evict a tenant is filed, a landlord who believes there is an emergency sufficient to justify immediate action can request that a court remove the tenant before the case is over. This is like a preliminary injunction. The hearing to remove the tenant will be held within 6-12 days (as compared with the 2-4 days in the present law).

Sec. 09.45.135: Hearing; Defenses and Counterclaims.
At the hearing on the motion for possession the tenant explains all his/her defenses and counterclaims. If the lawsuit has been brought improperly (e.g. inadequate notice) or if the objections raised by the tena would be valid if proven at trial, the suit shall be dismissed or scheduled

later so the objections can be properly presented. If the objections do not appear valid, and the suit has been brought properly, the judge shall order the tenant to leave. The tenant being evicted for being behind in rent will be given three days to pay all the rent and remain in the house.

Section 9. This section repeals AS 09.45.496(a) which refers to Civil Rule 85. The procedure for eviction will now appear in AS 09.45.060-.160 and AS 34.03. Besides, AS 09.45.496 appears in the wrong title of the statutes.

AS 22.15.030(a)(8) repeals the district court's jurisdiction of certain eviction actions, i.e. those where the value involved does not exceed $10,000. All actions removing a tenant should be heard in superior court.

Section 10. A number of Civil Rules are altered, i.e. those on eviction procedures, motions, and information required on the summons. Therefore, a two-thirds vote is required.

3. Amendment.

There is a drafting error in this bill. On p. 2, line 7, "3403.390(a) or (b)" should read "34.03.290(a) or (b)".

HB 827 and HB 828

Mr. Chairman, members of the Committee, I am Bernard L. Marsh, Executive Secretary of Alaska Landlord and Property Managers Association. Although the membership has not had an opportunity to study these proposals some of the officers have seen them, and parts of both are familiar to me, as they were amended out of the Landlord-Tenant Relationship Act of 1974.

In general, A L P M A is opposed to both these bills. At best they are unnecessary, and at worst HB 828 creates a possessory interest in one persons property by another person without compensation. I am referring here to Sec. 09.45.135 of HB 828.

In 1974 the landmark legislation passed by this body was the Landlord-Tenant Relationship Act, which became Chapter 3 of Title 34, Alaska Statutes. This comprehensive bill was heard very extensively, and had voluminous testimony by both landlord and tenant groups. The final result was a law, which on balance has successfully mitigated many of the problems that existed between landlords and tenants. HB 827 now seeks to enact into law a collection of the items that were most objectionable to landlords, and were amended out of the Landlord-Tenant Act.

HB 827 is anti-landlord legislation throughout. It is one-sided and punitive, and has no justification. Landlords as a group are small businessmen trying to realize a return on invested capital, and who rely on rental income from tenants. They do not victimize or prey on tenants.

To look at the bill in detail, consider Sec. 3 (d). This awards a fine for violation to the tenant, not the state. It is also a gimmick for victimizing a landlord; The violation is a technical one that does not harm the tenant. Only failure to return the deposit harms the tenant. The section is an attempt to force the landlord to pay a tenant for occupying his premises. The new subsection (1) of Sec. 3 (a) is similar to language amended out of the Landlord-Tenant Act. It would give the tenant control over the landlord's property, and allow him to run up charges against the landlord without even giving the landlord a chance to make corrections. In Paragraph (2), line 3, page 2, the question arises, who pays the appraiser that determines the diminution of value? Sec. 34.03.310, page 2, is another tenant windfall which was in an early version of the Landlord-Tenant Act, and was amended to the present language. If the tenant is entitled to $1000 from the landlord if he is unlawfully excluded from the premises, then why should not the landlord be entitled to punitive payment if the tenant willfully damages his property?

Sec. 34.03.215 on Page 3 is unnecessary. If an act is a violation of another statute, then it is a violation, It is rediculous to state it here.

HB 828 was apparently written by a lawyer, and is very difficult to understand. However, it again creates a possessory interest in another's property by setling up a situation where a tenant can retain possession of premises against the owner's will. (Sec. 09.45.135). As I read this, the tenant would have a perpetual lease on the premises, not a month-to-month agreement. We feel that there is now ample law on the books covering forceable detainer, action to recover possession, and action for recovery after unlawful exclusion.

There is one section of HB 828 to which we have no objection; that is Sec. 09.45.100 (Requisites of Notice to Quit). I say this with the reservation that the membership of A L P M A may decide differently, but it seems to me that the section clarifies the procedure for notice to quit. We are definitely opposed to the rest of the bill.

HB 829

"An Act relating to mobile home parks and mobile home park dwellers."

COMMITTEE REPORT

HOUSE

2/17/76 Mr. Speaker: Date 3/2/76

The Committee on COMMERCE has had HB 829 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

(X) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends: NO REC

_____ recommends: NO REC

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
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TELEPHONE 586-6425

MEMORANDUM

TO: Rep. Bradley, Rep. Parker, and Rep. Miller

FROM: Donald E. Clocksin

RE: CSHB 829--Mobile Homes, Floor Debate

DATE: March 10, 1976

Introduction

1. This bill recognizes the special situation mobile home dwellers are in and makes some adjustments in the Landlord-Tenant Act of 1974 to take care of some of their problems. There are thousands of people in Alaska who buy mobile homes because they prefer them or can't afford to own their own house. Most of them live in mobile home parks. Because it costs so much to move a mobile home (testimony indicated between $1,500 and $2,250) many mobile home dwellers live in constant fear of eviction and unreasonable rules and requirements.

   This bill was amended in committee to make sure it was consistent with HB 684 and to assure that park owners would still be able to evict bad tenants and to force the removal of uninhabitable mobile homes. We think the concerns of mobile home dealers and mobile home park owners have been met, at the same time solving the severe problems presented to the House Commerce Committee by mobile home owners.

   I have attached an article with notations as to what sections of the bill solve what problems.

2. Section-by-Section Analysis

   SECTION 1. Prohibits rental agreements which do not comply with Section 2 below.

   SECTION 2. Prohibits mobile home park rental agreements which:

   (a) forbid the tenant from selling the mobile home "in place"; (if Rules amendment is adopted, this subsection will allow a park owner to ban a sale if the mobile

home is uninhabitable and he/she doesn't want it in the park any more, or if the new tenant/buyer refuses to agree with the park's rental agreement or can't pay the space rent); (example: testimony revealed that in Juneau a park owner refused to allow a sale because the buyer was a legislator).

(b) require the tenant to improve the park owner's property (Ben Marsh from the Alaska Mobile Home Dealers Association supported this); (example: park owner required tenant to roll, seed, and maintain a lawn in the park);

(c) require the tenant to pay a "transfer fee" if he/she sells or buys a mobile home "in place" (unless actual services were agreed to and provided);

(d) require a prospective tenant to pay an "entry or exit fee" (unless actual services were agreed to and provided); (Marsh agreed to (c) and (d)).

SECTION 3. Requires the park operator to disclose in advance the improvements the tenant must make. (Marsh agreed to this, too.)

SECTION 4. Allows the park operator to decide what type of improvements are required, but he/she cannot require that the tenant buy materials from him/her. (Marsh agreed to this, also.)

SECTION 5. Allows the park operator to evict the tenant:

(a) if the tenant doesn't pay rent owed;

(b) if the tenant has violated a law which relates to the safety of the other tenants and the violation continues (example: tenant who violates a local ordinance banning dumping garbage in public can be evicted);

(c) if the tenant substantially violates a park rule (example: tenant lets his dogs run loose and bother people in violation of a park rule);

(d) if the park is being closed.

SECTION 6. Amends the law on sales of mobile homes to forbid a mobile home seller from requiring that a buyer put the mobile home in a certain mobile home

park (Marsh agreed with this).

3. Problems That May Come Up

(a) Bill creates a perpetual lease and takes away the landlord's control of his/her property (Section 5). Answer: If a tenant is doing something wrong, he/she can be evicted. But if they're not doing something wrong, it's economically stupid to evict them; so, what's the complaint? Besides, since it costs $1,500-$2,500 to move a mobile home, the park owner should be required to have a good reason before evicting a tenant and forcing them to suffer those costs. (Example: Testimony was that several mobile home tenants were told they would be evicted if they testified on this bill.) Besides, if we reduce needless evictions, we create a more stable mobile home dweller and maybe banks will allow longer term financing of mobile homes (now seven years).

(b) The bill will discourage development of more mobile home parks (Section 5, page 2, line 28). Answer: That was true befoer the Commerce Committee substitute, but not now. All the language which discouraged mobile home dealers from building mobile home parks was deleted.

(c) Bill allows park owner to evict a tenant who violates a law. Answer: The intent is to allow an eviction if the tenant is disrupting the park. It is not intended to be general discrimination against people convicted of crimes.

(d) The bill does not allow a park operator to ban a sale and thereby keep the quality of the park hi[illegible] (Section 2, page 1, line 18 and Section 5). Yes it does. With the Rules Committee amendment the park operator can force the removal of seriously substandard mobile homes and be sure they don't violate local, state or federal standards. Besides, allowing sales "on site" or "in place" makes refinancing the mobile home easier, according to a lobbyist for one of the dealer companies in Anchorage.

(e) This isn't a problem in Anchorage. Answer: Most of the mobile homes and mobile home parks are in Anchorage. Testimony indicated that mobile home evictions are a real problem in Anchorage as well as transfer fees, entry and exit fees. Besides, we can't solve a Juneau problem without also covering Anchorage. It's good preventive legislation.

Enclosure
pp

MEMORANDUM

TO: JAY KERTTULA

FROM: JAMIE LOVE

RE: MOBILE HOME LEGISLATION (HB 684 & HB 829)

DATE: APRIL 3, 1976

The above-mentioned bills are designed to correct serious abuses in the mobile home industry. My interest in mobile home problems dates back to last Spring. At that time, I received a call from a woman who was living in a mobile home court that had been sold. The new owner was converting the court into another land use, and each of the 20 tenants in the court was given a 30-day eviction notice. This woman owned the trailer she lived in. Neither she nor any of the other tenants were able to locate space in another court. When I talked to the woman, she was extremely distraught. She had to move her trailer within a few weeks and could not find a space to move to.

During this period of time, she and the other tenants in the park were approached by an individual who represented a mobile home sales outlet. The sales company was able to use the trailers even though there were no mobile home spaces available for rent in the marketplace. The reason for this was that in the Winter of 1975 the overall vacancy rate for mobile home spaces dipped as the Anchorage area was experiencing a housing shortage. At that time, several of the larger mobile home dealers began quietly buying up the remainder of the vacant spaces including those in independant courts. As an added incentive to the mobile home court operators, the dealers offered a commission, or fee, of approximately $400 to $500 for each mobile home which was placed in their court.

In this particular case, almost every tenant of that court sold their mobile homes, at a fraction of their value, to the single mobile home sales dealership. The dealer then resold the mobile homes at their market value, placing them in spaces they had previously tied up.

I discussed the situation with a reporter from the Anchorage Daily News, Pam Milsap. Milsap interviewed this lady and others who were having problems at the time. Her account of the mobile home situation is attached to this memo.

Shortly after the Daily News story, the Alaska Public Interest Research Group asked the State Attorney General's Office for an investigation into the apparent abuses. After being pressed by the local Consumer Protection Office for more facts, a staff person from AkPIRG approached 26 of the largest mobile home courts in Anchorage posing as an individual interested in finding a rental space for a used trailer. The results of that investigation are detailed in a letter, attached to this memo, which was sent to Attorney General Avrum Gross on July 8, 1975.

Attorney General Gross initiated an investigation to determine if the alleged practices were in violation of the State Anti-Trust Act. The investigation into the matter has been slow, hampered apparently by the shortage of staff for the State's Consumer Protection Office. Only in the last two months have industry officials been subpoened, and, as of my most recent discussion with the attorneys involved, many important issues have not yet been analyzed.

Since July, other methods of dealing with the problem have been explored. The result is the bill before your committee, HB 684, which makes the tie-in arrangement between mobile home courts and mobile home dealers a violation of the State's Unfair Trade Practices Act. Support for a legislative solution resulted from a sympathy for the situation of the offending mobile home dealers. Even though the tie-in practice is, in my opinion, an unfair and harmful business practice, many of the mobile home dealers were forced into participating when they found out that other mobile home dealers were involved. Being left out of the picture in the rush for tying up spaces meant risking going out of business. Some of us reasoned that since they obviously couldn't trust each other, the State would perform a service by stepping in and forcing everyone to end the practice. Anti-trust litigation is extremely complex, time-consuming, and expensive. The enactment of legislation would relieve the dealers from the burden of paying for legal counsel in an anti-trust action.

It is my understanding that the practice of tying space rentals to sales takes place in Anchorage, Fairbanks, Valdez, Juneau, and Ketchikan, as well as other communities across the state. I am most familiar with the situation in Anchorage. As of last Summer, there were four or five large dealers who had cornered the market of available spaces. I assume the situation has not changed dramatically, although I have heard that the larger dealers are letting the smaller outfits make a few sales from time to time. This is due to a growing concern by the larger dealers over the pending legislation and the Attorney General's investigation.

The smaller dealers have a good deal at stake in a rapid resolution to the problem, but the obvious matter which your committee should address itself to is the effect which this practice has on mobile home consumers. In Anchorage, for example, instead of having dozens of sales outlets competing against each other for sales, there are a few large dealerships which have all the spaces. The price that mobile homes are sold for, now, probably has more to do with the competitive price of conventional home ownership or rentals, than competition among dealers.

This is of particular concern, since the state is experiencing such a crisis in all other areas of housing. The costs of home ownership have skyrocketed beyond the reach of many Alaskans. Rents have also risen dramatically as a result of the housing shortages which plague many areas of the state.

Mobile homes should be an important factor in moderating the effects of the current housing market. Instead, through limited competition, mobile homes have become increasingly more expensive. To illustrate just how expensive mobile homes have become, I am attaching a summary, prepared by AkPIRG, of Anchorage mobile home sales in the month of October 1975 as listed in the trade publication, Alaska Motor Report. The average selling price was $35,000, with many sales over $45,000. (Sales are for the trailer without land).

When space rentals are tied in with the purchase of new sales, consumers cannot shop for used homes from private sellers, purchase the homes from Seattle and pay the shipping, or negotiate a selling price from the wide range of dealers. All the best features of the free enterprise system have been compromised and the protection of a free marketplace has been eliminated. There is no doubt that if tie-ins were made illegal, the result would be substantial price savings to consumers on mobile home purchases.

Not surprisingly, the large mobile home dealers and court operators which have been prospering under the present system are mounting an attack against the proposed legislation. The industry lobbyist, Mr. Ben Marsh, has presented their position before the House Commerce Committee. Anticipating a less than sympathetic response to allegations of anti-competitive practices, Mr. Marsh has tried to present their case in its best light.

This was in the form of an argument that restrictions on mobile home tie-ins would eliminate the development of new mobile home courts. The heart of this argument is the questionable assertion that it is uneconomical to develop new mobile home courts, and that courts are developed by dealers at an economic loss to provide a market for their sales. According to Marsh, dealers are the only ones developing new courts and if they are not allowed to tie in sales to their space rental, they will abandon the court development business.

When this argument was first raised by the industry, my instinct was to accept it at face value, and to think of ways we could compromise on the tie-in question. The more analysis I gave the matter, however, the more illogical it seemed. Demand for mobile home spaces was at the root of the problem. The tie-in situation was a reponse to low vacancy rates and high consumer demand for mobile home sales. People are going crazy in Anchorage and other communities, trying to find spaces for their mobile homes. It is, in fact, almost impossible to rent a mobile home space without purchasing a new mobile home. Why then, couldn't a new mobile home court operator simply charge a higher rent to pay for the increased development costs? As long as it was cheaper to pay the court rental and the mobile home mortgage than to buy a conventional house or rent an apartment, people would continue to buy mobile homes and rent the spaces.

A good illustration is the summary of October 1975 mobile home sales obtained from the Alaska Motor Report. Sales which were made in Anchorage included 59 transactions. Of those 59, the average selling price for a mobile home was $35,000. The largest dealer in that report, Anchorage Trailer Sales, was listed as the vendor for 28 of the 59 sales. Of those 28 sales, 18 were for more than $40,000. In comparison, Globe Western, one of the smaller vendors, made three sales at an average selling price of $15,805.

The tie-in between spaces and sales has given the large vendors the opportunity to toally control the market. Not only are prices grossly inflated, but the dealers have been able to control the type of mobile home which is sold. Consumers may prefer the cheaper lower-priced trailers, which have fewer amenities; but the sales companies, which control the availability of court spaces, can make bigger profits on the sale of double wides, and luxury trailers, loaded with the extras that bring the biggest mark ups. This domination of the market by the highest priced units is among the most abusive features of the tie-in practice, and perhaps the biggest incentive to the vendors to retain it.

As a final note, the Committee should take into consideration other factors which have an effect on the supply of spaces. Planning restrictions and community pressures often discourage the development of mobile home courts. It is no secret that a mobile home park is not the most welcome addition to a residential neighborhood. In Anchorage, mobile home courts may only be built by special zoning exemption. Bias against mobile home courts, regardless of their merits, have an important effect on the supply side of the marketplace.

Administration officials from the Department of Commerce and the Department of Law should be able to provide further information on these points. I strongly urge passage of HB 664 and any other measure designed to deal with the tie-in situation.

Many other problems associated with mobile home court rentals are addressed in HB 829. Probably the most important and most controversial feature of the proposed legislation is the section which limits the court owner's right to evict residents of the court. Sec. 34.03.225 sets out four standards for evictions from courts. Currently, it is the practice of almost every mobile home court in Alaska to rent on a month-to-month basis. Mobile homes are treated like other tenants in the State's Landlord-Tenant law. A resident in a court may be evicted, without cause, on 30 days' notice.

It is not untypical for a mobile home owner to have 20 to 30 thousand dollars tied up in the home they are living in. The cost of moving a mobile home, if you can find a place to move to, runs from $1,000 to $2,000 on the average; or, approximately one to two years' rent in the average court. There is, obviously, very little security for the mobile home owner under the current situation. If I was living in a court, I would think

ALASKA PUBLIC INTEREST RESEARCH GROUP

P. O. BOX 1093
ANCHORAGE, ALASKA 99510

PHONE 274-6765

July 8, 1975

Mr. Avrum Gross
Attorney General
Office of the Governor
Pouch A
Juneau, Alaska 99811

Dear Av:

As discussed earlier, I am forwarding an outline of abuses in the marketing of mobile homes which we believe are in violation of the recently enacted State Anti-trust Act.

Earlier this month, one of our staff persons contacted 26 out of the 29 mobile home courts listed in the Anchorage Telephone yellow pages. She explained to the court owners or managers that she was considering the purchase of a used mobile home from a private party, and wanted to reserve a space in their courts. She was turned down in each of the 26 courts.

Approximately half of the courts surveyed refused to place her on a waiting list. When she entered into discussions with court managers, she was told she would have better luck if she purchased a new mobile home from one of the larger dealers. On several occasions, the court manager gave her the name of court dealers that had reserved spaces in their courts.

Confidential conversations with three court owners/managers indicate that the dealers have entered into agreements with the courts to rent all empty spaces (including new or newly vacated spaces) at the going rental rate with the understanding that when the dealer sells a home and places it in the court, the court owner receives a cash kickback on the sale. One court owner receives $400 per trailer, and we have reason to believe that some court owners are getting more. It is our understanding that the cost of both the month rent on empty spaces and the kickback on the sale are passed on to the consumer as additional costs in each transaction.

Only a handful of mobile home dealers have tied up large amounts of space, and some dealers are completely frozen out of the market. Private individuals trying to sell a mobile home, due to evictions, leaving the state, purchasing new homes, or other reasons, are forced to sell to mobile home dealers who have spaces tied

up, usually for a fraction of the home's value. Consumers are forced to purchase homes from a few large dealers, with practically no competition from private parties or independent or small dealers.

We have become aware of trailer courts evicting mobile home owners for frivolous reasons; changes in ownership, changes in court rules, or enforcement of rules that had been ignored for years. We suspect that some of these evictions are motivated by the desire to make profits from the placement of new trailers in empty spaces. Mobile home owners we have contacted panic when they attempt to relocate mobile homes, or market them to private individuals. One trailer court owner received one hundred calls in one day for a single space he had advertised in the evening paper.

In conclusion, we believe that the problem has adverse effects on mobile home consumers, elimates independent and small dealers from the mobile home market, and creates severe hardships on mobile home owners, faced with evictions or attempting to sell their trailers. We have reason to believe that this problem exists for other parts of the State, particularly in Fairbanks. We feel that mobile home dealers or court owners should not tie the purchase of mobile homes to the rental of a lot. We recommend an anti-trust action that would bar dealers and court owners from engaging in the current practices. As a final note, we urge your office to act immediately on this matter. It is clear that "immediate and irreparable harm" is indeed taking place. If your office decides on pursuing the anti-trust litigation, we strongly urge an immediate, intensive investigation by your staff, so that a preliminary injunction against the dealers and court owners can be granted this summer.

Thank you.

Sincerely,

James Love

pm

OCTOBER 1975

ANCHORAGE AREA MOBILE HOME SALES

ANCHORAGE TRAILER SALES, 3745 Mountain View Dr.

	PURCHASER	MAKE	FINANCER	DEL PRICE	BALANCE	SER. NUMBER
1	Richard Swartz 9004 Hartson Dr. Anchorage 99507	Schult	ASB	48,478.80	43,078.80	136447
2	Ralph Eslinger 1200 W. Dimond Blvd Anchorage 99502	Kit	ASB	82,383.36	63,876.36	sh792
3	Terry Hamilton 1504 E. Bluff Anchorage 99504	Kit	ASB	43,468.48	39,510.48	xh735
4	Johnnie Hammer 365 Dowling Rd #11 Anchorage 99503	Vandyke	ASB	36,082.52	32,582.52	12549
5	Timothy Brown 1200 W. Dimond Blvd #539 Anchorage 99502	Schult	ASB	38,674.80	35,774.80	136483
6	Bonnie Schwenke 4108 Reka Anchorage 99504	Hacienda	ASB	38,250.00	34,350.00	12589
7	Sylvester Dimonde SRA Rt 146-p Anchorage 99562	Kentwood	ASB	33,993.48	30,618.48	kw340
8	David Meye 7800 DeBarr #75 Anchorage 99504	Schult	ASB	54,082.00	48,450.00	136457
9	John Hutler 1105 W 33rd Ave Anchorage 99503	Schult	ASB	43,967.60	38,967.60	136581
10	Gordon White 7220 E. 32nd Anchorage 99504	Schult	ASB	42,896.00	39,916.00	136609
11	David Schnell 7623 Arctic Blvd Anchorage 99503	Vandyke	ANSAFCU	29,924.96	27,924.96	12731
12	Percy Plummer 3835 Randolph St Anchorage 99504	Vandyke	ASB	36,896.60	33,234.60	12979
13	Fred Blumer, Jr. Box 1856 Anchorage 99510	Schult	ASB	43,373.00	36,094.00	136326

This list obtained from Alaska Motor Report, Motor Statistical Div. for Oct. 1975

ANCHORAGE AREA
OCTOBER 1975 MOBILE HOME SALES (CONTINUED)

ANCHORAGE TRAILER SALES continued

	PURCHASER	MAKE	FINANCER	DEL PRICE	BALANCE	SER. NO.
14	John Damazio 2403 Eureka #10 Anchorage 99504	Kit	ASB	46,241.60	40,477.80	SL748
15	Earl Cuzzort 3701 Eureka Sp. 80A Anchorage 99503	Schult	ASB	43,464.02	41,990.30	136455
16	Greg/Jayne LaFramboise 1545 S. Hoyt #58 Anchorage, AK 99504	Kit	ASB	37,294.00	33,294.00	SL741
17	Allan Patterson 7800 DeBarr #126 Anchorage 99504	Schult	ASB	43,710.61	37,218.20	136610
18	Douglas Daniels 533A Dyea Ft. Richardson 99505	Schult	ASB	44,081.40	39,911.40	136608
19	Dick's Trucking Inc. 429 Industrial Way Anchorage 99501	Kit	ASB	31,114.00	24,480.00	SL596
20	Eugine Weldon 3007 Arctic #4 Anchorage 99503	Schult	ASB	43,373.00	38,073.00	136490
21	Donald MacDonald 3706 Wilson Ct Anchorage 99509	Kentwood	ASB	35,269.84	31,914.84	KW3408
22	Nancy Kelley 7800 Debarr #330 Anchorage 99504	Kit	ASB	44,357.80	34,258.30	SL742
23	Youel Smith 5180 Taku Dr #6 Anchorage 99504	Schult	ASB	44,720.00	41,820.00	136576
24	Kent Ramsay 5901 E 6th Sp 170 Anchorage 99504	Kit	ASB	42,583.40	37,403.40	SL738
25	Stephen Wilcox 731 B St. #401 Anchorage 99501	Kentwood	ASB	34,731.00	28,731.00	KW3520
26	Harvey Weldon 1400 Muldoon Rd #265 Anchorage 99504	Schult	ASB	45,040.01	40,932.01	136605

ANCHORAGE AREA
OCTOBER 1975 MOBILE HOME SALES (CONTINUED)

ANCHORAGE TRAILER SALES continued

	PURCHASER	MAKE	FINANCED	DEL. PRICE	BALANCE	SER. NO.
27	Lance Whaley Rm. 33 Bldg. 10-520 EAFB 99506	Kit	ASb	44,914.20	39,624.20	Su756
28	Scott Stringfellow Box 4-2806 Anchorage 99510	Schult	ASb	42,093.07	37,361.26	136338

OCTOBER 1975

ANCHORAGE AREA MOBILE HOME SALES

KATHY O ESTATES, 3602 Arctic Blvd.

	PURCHASER	MAKE	FINANCER	DEL. PRICE	BALANCE	S.N. NO.
1	Charles Meddings 909 Chugach #30 Anchorage 99503	Vantage	None	13,700.00	-	6457
2	Norman Seewald Box 8355 Anchorage 99504	LaGrande	AUSAFCU	23,450.00	23,450.00	5662
3	James Summers Box 1844 Anchorage 99510	Ridge	AUSAFCU	20,500.00	20,500.00	LoS1154

MCBRIDE TRAVEL HOMES

1	Walter Compton 4502 Lake Otis Pky Anchorage 99507	Coachman	InEW	25,154.56	18,977.23	1131094028

-1 MOBILE HOMES, INC. , 2525 Spenard Rd.

OCTOBER 1975

ANCHORAGE AREA MOBILE HOME SALES

MELODY SALES, INC., 3115 Mountain View Dr.

	PURCHASER	MAKE	FINANCER	DEL. PRICE	BALANCE	SER. NO.
1	Charles Quier 1114 Tonga Anchorage 99507	Frontier	PB&T	36,915.40	33,320.40	6228
2	Bobby Rasar 1200 W. Dimond Blvd #1448 Anchorage 99502	Portroyal	PB&T	38,249.60	32,049.60	6222A
3	LeAnn Kucera. SRA Box 332 S Anchorage 99507	Safeway	ASEFCU.	28,9[illegible]1.00	14,826.00	6109
4	Floyd Brooks 5607 Fiji Anchorage 99507	Portroyal	PB&T	38,418.00	32,[illegible]18.00	6191
5	Delores Thrope 1150 Tonga Anchorage 99507	Shelby	UCAFCU	36,220.80	32,710.80	6264

OCTOBER 1975

ANCHORAGE AREA MOBILE HOME SALES

BUCKHORN HOMES, INC., 4217 Mountain View Dr.

	PURCHASER	MAKE	FINANCER	DEL. PRICE	BALANCE	SER. NO.
1	Michael Simile 21-44 A Citrus EAFB 99506	Flamingo	AUSAFCU	28,937.48	16,900.00	s 7126
2	Edwin Alexander 1307 Hollywood Bldg 44 #2213 Anchorage 99501	Ponderosa	AUSAFCU	29,053.84	25,053.84	S6549
3	Kenneth Lowe 106 E. 11th, Apt. 4 Anchorage 99501	Flamingo	AUSAFCU	28,672.76	23,972.76	s7114
4	Robt Hawk 705 Muldoon Rd Sp 122 Anchorage 99504	Flamingo	NBA	25,552.56	20,902.56	S 7213
5	Larry Bass PSC #2 Box 4518 EAFB 99506	Brookdale	AUSAFCU	33,887.12	24,660.12	S6525
6	Dennis Taylor 1737 Norena St Anchorage 99504	Ponderosa	AUSAFCU	33,207.88	26,507.88	S6451
7	Doyle Stogner Box 758 Eagle River 99577	4 Seasons	NBA	20,598.48	16,598.48	4982

OCTOBER 1975

ANCHORAGE AREA MOBILE HOME SALES

BUDDY'S MOBILE HOME CORRAL, 2423 E. 5th Ave.

	PURCHASER	MAKE	FINANCER	DEL. PRICE	BALANCE	SER. NO.
1	Calvin Blackmon Gen Del Eagle River 99577	4 seasons	USARAL	31,976.80	27,976.80	4840

GLOBE WESTERN, 322 Concrete

	PURCHASER	MAKE	FINANCER	DEL. PRICE	BALANCE	SER. NO.
1.	Larry Foster Box 611 Chatanika Loop Eagle River 99577	Jamboree	AUSAFCU	16,405.20	16,405.20	C2114
2	Leslie Horn 2110 Stanford Dr. Anchorage 99501	Jamboree	AUSAFCU	16,150.80	13,117.80	A2154
3	Fred Ash 1151 Laland Pl Anchorage 99504	Jamboree	AUSAFCU	14,854.00	10,374.00	G2112

OCTOBER 1975

ANCHORAGE AREA MOBILE HOME SALES

REY HOMES, INC. 3317 Mountain View Dr.

	PURCHASER	MAKE	FINANCER	DEL. PRICE	BALANCE	SER. NO.
1	Robt Ramey Box 484-I Eagle River 99577	Marlette	FNB	23,636.00	23,636.00	50218
2	Michael Pierson 2221 Muldoon Rd #502 Anchorage 99504	Kit	FHA	24,710.00	24,710.00	S4591
3	Lamar Steen Box 2643 Anchorage 99507	Fleetwood	PB&T	23,400.00	23,400.00	s1864
4	Ronald Yoppe 2221 Muldoon Rd #561 Anchorage 99504	New Moon	AUSAFCU	27,265.00	27,265.00	s7050

OCTOBER 1975

ANCHORAGE AREA MOBILE HOME SALES

ENNEY MOBILE HOMES, 801 Airport Heights Dr.

PURCHASER	MAKE	FINANCER	DEL. PRICE	BALANCE	SER. NO.
Alan Williamson 501 Airport Heights Sp 281 Anchorage 99504	Lamplight	AUSAFCU	30,237.56	25,732.56	15810
Lionel Hartzog 801 Airport Heights Anchorage 99504	Lamplight	ARRFCU	35,691.60	32,373.60	15325
Emma Brown Box 293 Anchorage 99510	Brookwood	AJSAFCU	51,917.04	43,013.04	24iges1496
Ed Naumann 801 Airport Hgts Dr Sp 318 Anchorage 99504	Gibraltar	ASEFCU	34,634.96	31,048.00	9-1635
Tilman Grigsby Lazy Mt Trl Sp 42 Eagle River 99577	Gilbraltar	NBA	33,029.60	26,325.60	9-1876
John Bingham 801 Airport Hgts Sp 313 Anchorage 99504	Lamplight	NBA	37,730.43	33,009.43	15843
Michael Gordon 1545 S Hoyt Anchorage	Lamplight	ACFCU	30,972.00	25,116.00	15895

11-10-75

AKPIRG
630 W. 4th Ave
Anchorage, Alaska

Gentlemen:

There is a situation in the Anchorage Area that should be called to the attention of the powers that be for remedial action.

If an unsuspecting purchaser buys a mobile home he soon finds there is not place he can park or space he can rent.

There are numerous vacancies in many of the mobile home parks but much to the chagrin of the buyer he finds that the retail sales companies of the mobile homes have rented all these spaces for the benefit of their customers. If these companies want reserved spaces let them build their own parks, (one has) and not monopolize the market. This not only is unfair to the purchasing public but to the seller as well. He can't sell if the purchaser is unable to find parking space. Investigation has found for example, one park with four vacancies for over three months and yet a private purchaser from a private seller is unable to utilize even one of these spaces.

Isn't there some sort of consumer protection in this respect? With the housing shortage so acute and honest citizens being denied space rent it seems to me there could be some anti-trust or monopoly law invoked to put a damper on this unfair practice.

Sincerely,
J. Harold Michal

cc. - Anchorage Times.

Mr. Chairman, members of the Commerce Committee, I am Bernard L. Marsh, Executive Secretary of the Alaska Mobile Home Association and also the Alaska Trailer Court Association. HB 829 has not been available long enough for our membership to know about it, but I have shown it to the officers of the two associations, and have been asked to comment on the bill to this Committee.

HB 829 seems to have been written by consumer or tenants action groups with the intent of protecting consumers or tenants from abuses and from unfair expenses. In fact, the effect will likely be just the opposite. The cost to the consumer will be greater. A more serious consequence of this bill will be the creation of a new property right for tenants, which is probably unconstitutional, and which in any case will reduce the value of property and further damage the tight economic situation in the mobile home field. Let me explain:

1. Economics prohibit the production of mobile home spaces in any urban area of Alaska by independent court operators; that is, where the space rental is to provide a rate of return that will justify the investment. There have been no such spaces built in Anchorage in the last five years, and there will be none in the future under present conditions. Spaces have been, and are built by mobile home vendors, simply because you can't sell a mobile home unless there is some place to locate it. Spaces are provided by vendors simply to create sales. The spaces themselves are an economic loss to the vendor. The principle is exactly the same as that of J. C. Penney department store building a parking garage that loses money on parking, just to stimulate store sales. The reason for this situation is two fold; The increasing cost of land, and the progressively more restrictive government regulation.

In Anchorage, mobile home courts are allowed only in R-2, R-3, R-4, R-5, and "U" zones. The least costly usable land is unsubdivided R-2 land at about $24,000 per acre. The raw land is usually marginal, and may cost another $20,000 per acre to fill or grade. Reduced to cost per space and including utility cost, space development runs from $7,500 to $10,000 per space to develop. Current regulations limit spaces to 6 to 6 1/2 per gross acre (Glen Carin Court got 6.5 spaces per acre, and Montegue got 6.2). Using $8,000 per space as development cost, $24,000 per acre land cost, and 6.2 spaces per acre, we arrive at $11,800 per space as the final cost. To support any investment you must have a minimum of 15% return per year, or in this case $1,770 per space, or $147.50 per month. The current average space rent in Anchorage is $105 per month.

The effect of this legislation will be to prohibit the development of mobile home spaces by mobile home vendors, which will either bring space development and therefore new sales to a stop, or in the alternative drive all space rental to $150 per month. By the time the shortage becomes acute enough to drive up the price and tempt developers to build new spaces, the price will be much higher than that. It takes two years from initial planning to completion, to produce a trailer space.

2. The second bad thing this bill would do is create a possessory interest in the owner's property on the part of the tenant. In Sec 2 (C) (1) and in Sec 5, the owner of land is prohibiting tenancy, except for certain specific acts by the tenant. This literally converts a simple month-to-month tenancy into a perpetual lease, and actually creates a leasehold interest for one person in another parson's property without due process and without compensation. Under all principles of property ownership in this country,

forever, even through a change of ownership. It is incredible to me that this legislature would even consider such a proposal.

There are several sections of the bill to which we have no objection, and agree with. We agree with Sec 2 (C) (2), which would prohibit an owner from requiring a tenant to provide permanent improvements to his property. We also agree with (4) of the same section, prohibiting vendor or transfer fees as a condition of tenancy. We have no objection to all of Sec. 3. We also agree with Sec. 45.30.070 (a), beginning on line 16, page 3 of the bill. But we disagree with subsect. (b) of this section, which prohibits a perfectly legal and prudent practice on the part of a mobile home vendor. Any vendor who shipped mobile homes to Alaska at $4700 each, and had no spaces to locate them on, would be pretty foolish. Also, it would seem that creating a class of persons (mobile home vendors) who are prohibited from leasing spaces is highly discriminatory and in violation of the state Human Rights Act.

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
315 FIFTH STREET, SUITE 8
JUNEAU, ALASKA 99801
TELEPHONE 586-6445 x6425

MEMORANDUM

TO: Representative Bradley
House Commerce Committee

FROM: Donald E. Clocksin

DATE: February 24, 1976

RE: House Bill 829 - Mobile Home Parks

This bill adds several sections and subsections to the Residential Landlord and Tenant Act of 1974 (Ch. 10, SLA 1974) and adds a new section to the mobile home standards statute (AS 45.30). This bill would supplement CSHB 684 which made tieing arrangements between mobile home sellers and mobile home park operators a deceptive trade practice and which passed out of this committee on February 18.

1. Section-by-Section Analysis.

Section 1. This section prohibits mobile home rental agreements which do not comply with Section 2 below.

Section 2. This section prohibits mobile home rental agreements which:

a. forbid the tenant from selling the mobile home "in place;"

b. require the mobile home tenant to improve the landlord's property;

c. require the tenant ~~to buy~~ a ~~mobile home~~ from a certain mobile home seller; and

d. require the payment of a "transfer fee" when a mobile home in the park is sold unless actual services are agreed to and provided.

Section 3. This section requires the mobile home park operator to disclose in advance all the improvements the tenant must make (e.g. skirting, tie-downs, etc.).

Section 4. This section allows the mobile home park operator to determine the type of improvements the tenant must make, but prohibits him/her from requiring the tenant to purchase the necessary equipment from the park operator.

Section 5. This section limits the mobile home park operator's right to evict a mobile home or mobile home tenant to the following situations:

a. the rent is due and unpaid;

b. the tenant has violated a law or ordinance and the violation continues to injure other tenants;

c. the tenant has substantially violated a park regulation; or

d. the use of the property on which the mobile homes sit is being changed (at least 90 days notice required).

Section 6. This section amends the mobile home standards statute to prohibit the seller of a mobile home from requiring that it be placed in a certain park and ~~from paying a park operator to hold spaces~~ open.

pp

Fact Sheet

Mobile Home Bills

In 1974 the Legislature passed a major new law recognizing the rights of landlords and tenants and clarifying the obligations they both had to each other. However, since it went into effect, we have discovered that it did not take into account the special situation of tenants who live in mobile homes. Three bills have been filed this session to adjust the landlord-tenant act to make special provision for mobile home dwellers.

The special circumstances of mobile home tenants are:

1. the cost of moving them - (testimony indicated $1500 to $2200 to move one)
2. the refusal of some landlords to allow tenants to sell the mobile home "in place"
3. the power, thru threat of eviction, to impose unreasonable rules, and regulations & fees.
4. the fact mobile home dealers and mobile home park operators are making agreements which force people wanting mobile homes to buy them from certain dealers. The agreements also result in mobile home spaces sitting empty while tenants are begging for places to put their homes -
5. People who choose to live in mobile homes are treated as second class citizens, completely at the mercy of their park operator.

1. HB 827. This bill adds new remedies to the landlord-tenant act. The last section grants the Consumer Protection division of the A-G's office jurisdiction over landlord-tenant disputes. This solves a problem presented to my committee by members of mobile home tenants associations. Many of them are not rich, but not poor either. If their park operator violates the Landlord-Tenant Act, they need an attorney, but they can't afford a private attorney but are not always eligible for legal aid. With this amendment, the Attorney-General could get into the dispute on the tenant's behalf.

2. HB 684. This bill would make it illegal (for a park operator) to require a tenant to buy a mobile home from a certain dealer in order to put it in that park. These tieing arrangements force tenants to buy only from the bigger mobile home dealers and may force the smaller dealers, who don't have places to put their homes, out of business. The bill helps a) tenants who have mobile homes but no place to put them, b) tenants being evicted w/ no place to go, and c) smaller mobile home dealers.

3. HB 829. This bill

RONALD G. NELSON
Professional Civil Engineer
1500 AIRPORT WAY
FAIRBANKS, ALASKA 99701
(907) 456-4854

March 19, 1976

The Honorable Bob Bradley
Alaska State House Of Representatives
Pouch V, State Capitol Building
Juneau, Alaska 99811

Dear Representative Bradley:

REF: House Bills 684 & 829

I would like to express very strong opposition to the referenced bills which I believe are unnecessary, unwise and in certain respects unconstitutional.

I'm presently developing and operating a 180 unit mobile home park near Fairbanks and in so doing have acquired a reasonable degree of knowledge concerning the subject addressed by the referenced bills. Had these bills been law when I started development I would not have been able as a private individual, unsubsidized by government, to employ the persons I have, purchase the required goods and create a needed commodity which has added considerably to the Fairbanks North Star Borough tax base.

HB 829 Sec. 2 AS34.03.040 Paragraph C Part 1

I require each tenant in my court to enter into a written lease. This lease is with a particular tenant NOT a mobile home. If a tenant sold his mobile home to a third party who refused to enter into a rental agreement with me this bill would prevent me from requiring that the mobile home be moved resulting in a conveying of my ownership rights in the lot to whoever happens to hold title to the mobile home. Surely this is unconstitutional.

HB 829 Sec. 2 AS 34.03.040 Paragraph C Part 2

I require as a condition of tenancy that each tenant make certain improvements to the lot he leases all of which are associated with landscaping and include such items as planting a lawn, trees and shrubbery, and installation of fences and walks. Since these improvements are fixed to the land and not to the mobile home, I could not as a court owner require that they be done. The result would be in too many cases no effort by the tenant towards maintenance of their lots.

HB 829 Sec. 2 AS34.03.040 Paragraph C Part 4

I currently charge an entry fee for initial placement of each mobile home within my park. This is strictly a result of a superior product, and the law of supply and demand. Legislation which removes the possibility of this form of income for the developer also removes an incentive for furtiner development which is needed if a balance is to be obtained between available housing and a communitites need for such housing.

HB 829 Sec. 34.03.225

Wording of this section implies that a mobile home is something other than personal property of an individual and that indeed it can be evicted. Lease or rental agreements are between landlord and tenant NOT landlord and a mobile home.

A fifth part should be added which clearly allows any lease or rental term agreed upon in writing between landlord and tenant. The overall effect of of this section prohibits a normal month to month rental agreement and therefore prohibits a park owner from exercising control over his property. It literally prohibits any owner from terminating a tenancy and thus confers ownership rights to the tenant which is definitely unconstitutional.

Sec. 45.30.070 Part b

This disallows a mobile home dealer from paying a park developer to reserve spaces and would again have the effect of removing an incentive for development of needed mobile home parks and subdivisions. Financial institutions literally REQUIRE before committing funds that a substantial portion of the proposed project have rental commitments. The only practical source of such commitments are the various mobile home dealerships. A condition for financing of my park was such a commitment for reservation and rental of spaces. As an owner I do not believe I should be denied the opportunity of reserving and renting spaces in my park to what is potentially the greatest market.

HB 684 Section 1 AS45.50.471 (b) Part (23)

Again this would prevent a park or subdivision owner from entering into an agreement with a mobile home dealer to reserve spaces or lots on which the dealer could set up homes to sell to the public. As a park owner I've made such an agreement. By so doing I was able to obtain the necessary commitment for rental of spaces, a prerequisite to my being able to obtain financing. I believe it is unconstitutional to deny an owner the right to reserve or rent lots to anyone he so choses.

Additionally this bill would prevent a dealer from constructing his own park or subdivision and placing therein only homes his dealership sells. Perhaps you should pass a law to prevent a developer of conventional housing lots from also being the only builder in any particular development.

I would hope that you consider these comments, keeping in mind that the free enterprise system is the greatest system ever, as long as government controls and regulations do not over control or over regulate.

Thank you for your much valued time.

Sincerely,

Ronald G. Nelson

Ronald G. Nelson

HB 832

STATE OF ALASKA

JAY S. HAMMOND
GOVERNOR

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D — JUNEAU 99811

March 16, 1976

Honorable Bob Bradley, Chairman
House Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Bradley:

Pursuant to Phil Hubbard's testimony relating to construction contractor exemptions from regulations by the Alaska Transportation Commission, I would like to reiterate the following:

> Section 1 A.S. 42.10.020(4) as proposed to be amended removes the exemption of general contractors hauling for hire at a time that serious consideration is being given to the de-regulation of all operators of dump-type equipment.

Further, the removal of this exemption could be harmful to the small independent general contractor attempting to employ his assets. Construction equipment costs are high -- typically $25,000 to $40,000 for a dump truck depending upon capacity and other variables. Financing is only available at high interest rates and short terms of three to five years. Alaska's construction season is short and very few firms can afford to maintain idle equipment. Almost no financing is available for used equipment items unless new cost exceeds $50,000. Financing, other than private sources, is limited to commercial banks and manufacturers or distributors through subsidiary firms. This compounds the problem of the small independent contractor.

The concern of regulated truckers is that operators of dump-type carriers are bypassing the ATC through licensure as construction contractors, merely to avoid regulation. This problem may be resolved by amending either Sec. 42.10.020(4) or Sec 42.10.420(12) as follows:

> ...this exemption does not apply to persons licensed as construction contractors for the purpose of evasion of this chapter, whose principal business is operating as a motor carrier of commodities in bulk in dump-type equipment; this exemption does not apply to a person who advertises or by other device which might indicate to the public that he is a motor carrier, or that he is qualified to engage in the business of operating as a motor carrier of freight or bulk-commodities for compensation or gain.

The proponents of HB 832 have indicated that operators of bulk-type dump equipment have been gaining licensure as construction contractors to avoid ATC regulation.

It is our viewpoint that something like the above would:

A. Remedy the concern of the regulated motor carriers, and
B. Preserve the exemption for small construction contractors needing to employ their assets.

We would appreciate receiving word of further action planned for HB 832.

Sincerely,

Langhorne A. Motley
Commissioner

PROPOSED SPONSOR SUBSTITUTE FOR HB 832

AS 42.10.020(4) is amended to read:

(4)vehicles operated by a construction contractor while actively engaged as a construction contractor in a project of constructing, repairing or removing any kind of private or public facility. This exemption is not applicable to any vehicles used by a construction contractor for a construction contractor unless both are actively engaged on the same project.

hauling trailers only for a certain dealer and no one else, and that he had agreed to haul plaintiffs' trailer after they had been referred to him by such dealer, and there was no evidence that he undertook to serve the public generally—that within the limits of his operations he was available to everyone who desired his service, the trial judge did not err in finding that he was not a common carrier. Schenderline v. Robertson, Sup. Ct. Op. No. 232 (File No 469), 394 P.2d 395 (1964)

Am. Jur. and C.J.S. references.—9 Am. Jur., Carriers, § 1 et seq.; 37 Am. Jur., Motor Transportation, § 1 et seq.; 43 Am. Jur., Public Utilities and Services, §§ 192 to 223.

13 C.J.S. Carriers §§ 2 to 14.

Sec. 42.10.020. Exempt vehicles. This chapter shall apply to all vehicles unless specifically exempted by this section. This chapter, except when specifically otherwise provided, does not apply to

(1) motor vehicles operated exclusively in the transportation of United States mail or in the transportation of newspapers or periodicals alone or in conjunction with an express service delivering packages not to exceed 100 pounds to any one receiver;

(2) motor vehicles owned and operated by the United States, the state, or a borough, city, town, or municipality in the state, or by a department of any of them, except when the vehicles are used to transport property of the general public for compensation in competition with other common carriers subject to this chapter, and to the extent regulation of vehicles operated by the United States is permitted by the laws of the United States;

(3) motor vehicles not exceeding a total gross weight of 12,000 pounds, owned and operated by a rancher, farmer, or dairyman in the transportation of his own ranch, farm, or dairy products from the point of production to market or to the point of transportation to market, or of supplies, commodities, or equipment used on his own ranch, farm, or dairy. Motor vehicles operating under this classification shall be identified as farm vehicles in accordance with regulations prescribed by the commissioner of revenue;

(4) ~~vehicles operated by a construction contractor while performing such a business as defined in § 120(12) of this chapter~~ except that weight fees in an amount as provided by § 240 of this chapter shall be paid for each vehicle designed to be operated on a public highway. (§ 5 ch 166 SLA 1960; am § 4 ch 121 SLA 1961; am § 1 ch 103 SLA 1963; am § 1 ch 107 SLA 1970)

Effect of amendments.—The 1963 amendment added the present first sentence, added all of the language beginning with the word "alone" in (1) and rewrote (3).

The 1970 amendment added paragraph (4).

Legislative committee report.—For report on ch. 107, SLA 1970 (HCSCSSB 271 am H), see 1970 House Journal, p. 902. Also refer to 1970 House Journal, p. 1244 (re HCSSB 543).

Quoted in Alaska Transp. Comm'n v. Harcock, Sup. Ct. Op. No. 578 (File No. 1044), 458 P.2d 1012 (1969).

Am. Jur. reference.—37 Am. Jur., Motor Transportation, §§ 53 to 65.

HB623 4/8/74 a22(5)

Sec. 42.10.030. Compliance enjoined. It is unlawful for any per-

tion of property for compensation over the public highways as a broker or forwarder;

(4) "exempt carrier" means a person operating a vehicle exempted from certain provisions of this chapter under § 20 of this chapter;

(5) "motor carrier" includes common carrier, contract carrier, private carrier and exempt carrier;

(6) "motor vehicle" means a truck, tractor, wrecker, tow car, hearse, ambulance or other self-propelled or motor-driven vehicle used upon any public highway of this state for the purpose of transporting property;

(7) "private carrier" is:

(A) a person who transports by motor vehicle, with or without compensation, property which is owned or is being bought or sold by him, or property of which he is the seller, purchaser, lessee or bailee, and the transportation is incidental to and in furtherance of some other primary business conducted by the person in good faith;

(B) a person who rents, leases, or otherwise provides a motor vehicle for the use of others in transporting passengers or property, but who does not provide, procure, or arrange for, directly, indirectly or by course of dealing, an operator for the vehicle.

(11) "property" means all commodities, articles and cargo, of whatever nature or value, excluding garbage, refuse, trash or other waste material;

(12) "construction contractor" means a contractor licensed by the state as a general contractor under AS 08.18 to engage in and who is actively and regularly engaged in the business of constructing, repairing or removing any kind of private or public facility or structure and does not include "contract carriers" authorized to transport commodities in bulk in dump-type equipment ~~unless the "contract carrier" is also actively engaged in the business of constructing, repairing or removing private or public facilities or structures as a licensed general contractor under AS 08.18~~.

(am § 1 ch 89 SLA 1971; am § 10 ch 120 SLA 1972; am § 3 ch 52 SLA 1973; am § 4 ch 76 SLA 1973)

Effect of amendments. The 1971 amendment deleted "trailer, semi-trailer" following "truck" in paragraph (6).

The 1972 amendment, in paragraph (12), inserted "as a general contractor under AS 08.18," inserted "and regularly," inserted "general" following "licensed," and added "under AS 08.18."

The first 1973 amendment rewrote paragraph (7).

The second 1973 amendment rewrote paragraph (11).

As the rest of the section was not affected by the amendments, it is not set out.

Senate Rules Committee Recommendation

Dump trucks/or their replacements operated by construction contractors as of December 30, 1975; provided that construction contractors operating vehicles under the provision of this exception shall comply with the provisions of 3 AAC 64.170 excepting the provisions of 3 AAC 64.170(12) within 30 days from the effective date of this act; and further provided that in addition any contractor operating vehicles under this section shall comply with the provision of 3 AAC 64.170(12) prior to expanding his levels of dumping operations beyond those existing on December 30, 1975.

Permits construction contractors who have operated dump trucks for hire under the "contractors exemption rule" 30 days to apply for DOC operating authority without need to show public convenience and necessity.

(REFER HOUSE BILL 832)

1. GENERAL INFORMATION

AS 42.10.130 reads: (a) ". . . no common carrier, contract carrier, or temporary carrier may operate for the transportation of property for compensation in the state without a permit . . ."

AS 42.10.420 Definitions. In this chapter (only the applicable terms listed)

(2) "common carrier" includes:

(A) a person who undertakes to transport property for the general public by motor vehicle for compensation, over regular or irregular routes, on regular or irregular schedules. . .;

(B) a person who leases, rents, or provides a motor vehicle for the use of another in transporting property, and who provides, procures, or arranges for, directly or indirectly, or by course of dealing, a driver or operator for the motor vehicle or the necessary authority for the use of it on a public highway, except when the motor vehicle is leased to an authorized common carrier or contract carrier or by a construction contractor as defined in (12) of this section to another construction contractor as so defined, under rules and regulations to be prescribed by the commission;

(C) a person engaged in the business of providing, contracting for or undertaking to provide transportation of property for compensation over public highways as a broker or forwarder;

(3) "contract carrier" includes all motor vehicles not included under the term "common carrier" or "private carrier" and includes any person who under special and individual contracts or agreements transports property by motor vehicle for compensation; contract carrier includes a person engaged in the business of providing, contracting, for or, undertaking to provide transportation of property for compensation over the public highways as a broker or forwarder;

(note: as a practical matter in the hauling of bulk construction materials in dump type equipment, the "contract carrier" functions in the same manner as the "common carrier" and is subject to the same basic regulatory laws.)

(4) "exempt carrier" means a person operating a vehicle exempted from certain provisions of this chapter under Sec. 42.10.420 of this chapter;

(7) "private carrier" is a person who, in his own vehicle, transports only property owned or being bought or sold by him in good faith when the transportation is on incidental adjunct to some other established primary private business, other than transportation, owned or operated by him in good faith, and also includes all persons who rent, lease, or otherwise provide a motor vehicle for use of others in transporting property, and who, in connection therewith, do not provide, procure, or arrange for, directly, indirectly, or by course of dealing, a driver or operator for the motor vehicle.

AS 42.10.020 exempts certain vehicles and states, "This chapter shall apply to all vehicles unless specifically exempted from this section. This chapter, except when specifically or otherwise provided does not apply to (1) transportation of United States mail (2) motor vehicles operated by federal, state, borough, city or other municipalities (except where used to transport property of the general public for compensation in competition with other common carriers), (3) motor vehicles under 12,000 pounds gross weight operated by ranchers, farmers or dairymen for transportation of his own products and (4) vehicles operated by a construction contractor, while performing such a business as defined in (AS Section 42.10) 420 (12) . . . which reads:

> (12) "construction contractor" means a contractor licensed by the state as a general contractor under AS 08.18 to engage in and who is actively and regularly engaged in the business of constructing, repairing or removing any kind of private or public facility or structure and does not include "contract carriers" authorized to transport commodities in bulk in dump-type equipment unless the "contract carrier" is also actively engaged in the business of constructing, repairing or removing private or public facilities or structures as a licensed general contractor under AS 08.18.

AS Section 08.18.171 (2) - "Contractor" means a person who, in the pursuit of an independent business, undertakes or offers to perform, or claims to have the capacity to perform, or submits a bid for a project to construct, alter, repair, move or demolish a building, highway, road, railroad, or any type of fixed structure, including excavation and site development and erection of scaffolding; a general contractor whose business operations require the use of more than two distinct trades whose work the general contractor superintends; the terms "general contractor" and "builder" are synonymous; a "specialty contractor" is a contractor whose operations do not fall within the definition of "general contractor".

2. PROPOSED CHANGES

House Bill amends AS Section 42.10.420 by adding a new paragraph to read:

> (13) "actively engaged in the business of constructing, repairing or removing private or public facilities or structures" means engaging in the business of undertaking responsibility for erecting, installing, repairing or dismantling of facilities or structures as a primary business throughout the year; the term does not include hauling of structures of facilities whether disassembled or intact, nor does it include transportation of construction materials for another construction contractor.

3. PURPOSE OF AMENDMENT

To eliminate the existing economic hardship and operational discriminations caused to the dump truck industry by the "contractors exemptions"; to replace under regulatory laws a large part of for-hire transportation presently done by exempted dump truck operators; and put the law back as it was intended by the Alaska Motor Freight Carrier Act.

4. HISTORY OF "CONTRACTORS EXEMPTION"

During construction of the Anchorage-Fairbanks Highway the remoteness of the area created a problem of both economy and convenience best solved by the interchange of equipment. The Alaska Motor Freight Carrier Act prevented this practice but dump truck operators and contractors agreed to and sought a change in the law to permit this practice. Like other laws, times and conditions make them obsolete. The exemption of contractors from the law is certainly obsolete, if not in fact unconstitutional.

5. SOME OBVIOUS INEQUITIES TO THE DUMP TRUCK INDUSTRY CAUSED BY THE "CONTRACTORS EXEMPTION"

(1) The Alaska Transportation Commission, as respects "contract carriers", is required by law to (a) supervise and regulate every contract carrier in the state (b) to develop fair and reasonable rules and regulations (c) to assess fair and reasonable rates and charges (d) regulate accounts, service and safety of operations (e) requires filing of reports and other data and (f) supervise and regulate in all other matters affecting its (contract carrier) relationship with shipping and the general public. Violators can be fined up to $500 and costs of prosecution.
Construction contractors owned vehicles are subject only to supervision and regulation of its safety of operation. Noncompliance subject to fine up to $150.

(2) Contract carriers must have identification signs on each vehicle, as prescribed by law. These signs can cost up to $80 each vehicle. Noncompliance subject to fine up to $150.
Construction contractor exempt.

(3) Contract carrier applicants for operating authority (permits) are required to submit (a) total fees of $90 (b) name and address (c) Alaska state business license number (d) record of affiliation with any other motor carrier in Alaska, the United States or Canada (e) type of service to be provided (f) types and amounts of insurance carried or to be acquired (g) current financial statement (h) type and number of pieces of equipment to be used (i) zones to be served (j) anticipated annual volume of business (k) experience (l) schedule of intended rates (m) prove service is essential to the public needs and interests and (n) statement he has read, understands and intends to comply with the Alaska Motor Freight Carrier Act, Alaska Administrative Code and Alaska Traffic Regulations.
Exempt specialty contractor required to submit (a) total fees of $50 (b) name and address (c) social security number (d) type of contracting activity (e) bond in the amount of $2000.

(4) Contract carrier subject to prescribed lease requirements. Violators subject to fine and costs of prosecution.
Construction contractor exempt.

(5) Contract carriers must carry current vehicle identification cards prescribed by state.
Construction contractor exempt.

(6) Contract carriers required to file and maintain tariff rates with commission. (see "Tariff " rate explained below). Construction contractor exempt.

"Tariff" rate explained . . . the hourly cost of operating a dump truck is based on a formula which includes costs for vehicle, taxes, license, insurance, fuel, etc., plus the actual Teamster labor rate package and an average of 950 maximum working hours per year. The resulting rate may after due process of law, become the minimum "tariff" permit holders are required to file with the Alaska Transportation Commission. This "tariff" rate then becomes the generally accepted rate used by the construction industry. It is the rate charged to the public.

It is worth noting that we are in full accord with the rate making process and requirement to file a minimum rate, although at this point it begins to work against us. For example, dump truckers working under the "contractors exemption" know we cannot by law, charge less than the published tariff and because they are not required to file rates, are free to cut rates enough to get the job. It is not difficult to see who works first and longest. In another situation, the construction contractor bids a job to the public using our published "tariff" plus his profit, overhead, etc, and can then hire dump truckers working under this "contractors exemption" for less than our filed rates or lease non permitted carriers at a "cut rate". Many other such variations are used.

Since it is generally agreed that 90% of the work done by dump truckers is done for construction contractors, we can also agree that our "tariff" is generally the minimum charged to the public so in either case the public pays the same and the only benefit is to the construction contractor.

6. CONCLUSIONS

It is worth noting that the construction industry in this state, or at least those doing the greater part of earth moving, is comprised of large and economically powerful construction operations. Conversely, the dump truck industry is comprised generally of many small operators whose economic power is such that they cannot hope to compete with that of the large construction concerns. Case in point . . . in the Alaska Dump Truckers Association 53% of our members operate 1 dump truck, 16% own 2, 19% - 3 to 5, 9% 6 to 10 and only 4 members have more than 10 trucks.

Given this situation, large construction companies operating dump trucks under the "contractors exemption" are free to bring their economic power to bear on the small dump truck operator and force him to work at non-compensatory rates, if he was to work at all, and effectively bankrupt or otherwise strangle an industry that is important to Alaska economy. The declaration of policy under Section 42.10.010 of the Alaska Motor Freight Carrier Act cites as its purpose to provide the shippers and receivers of freight in the state with a stabilized service and rate structure; to foster sound economic conditions among the carriers which will guarantee transportation in the public interest; to promote adequate, economical and efficient service by motor carriers, and reasonable charges without

unjust discrimination, undue preferences or advantages, or unfair or destructive competitive practices; to preserve the common carrier of commodities by motor carrier in the public interest; to improve and coordinate the relations between, and transportation by and regulation of, motor carriers and other carriers so that the highways of the state may be properly developed and preserved, and the public assured of adequate, complete, dependable and stable transportation service.

Further, under Section 42.10.120 the Alaska Transportation Commission is charged to administer and enforce all provisions of this chapter and may inspect the vehicles, books, and documents of motor carriers, and the books, documents, and records of persons using the service of the carrier, for the purpose of discovering discrimination, rebates, and other information pertaining to this chapter. The commission shall prosecute violations of this chapter.

It is the feeling of this Association that the "contractors exemption" (AS Sec. 42.10.420 (12) is inconsistent with the declared policy of the Alaska Motor Freight Carrier Act as was intended by the legislature when it was originally written and even when the "exemption" was added in 1970. As the "exemption" directly affects the dump truck industry it is our opinion that the "exemption" is unjust, unreasonable, preferential, prejudicial and that it creates an opportunity for a large segment of non-regulated carriers in Alaska to employ unfair competitive practices and to offer concessions or preferences to any shipper and thereby prejudice other users of the service. Users of dump truck service (which is 90% to construction contractors) to pit one carrier against another and could well adversely effect the economic condition of the entire industry.

Our 107 members seek to correct the unfair part of AS Sec. 42.10.420 (12) and ask your support in passage of House Bill 852

ALASKA DUMP TRUCKERS ASSOCIATION, INC.

Richard E. Dunham
Executive Director

RED/ld

February 23, 1976

Mr. Richard E. Dunham
Alaska Dump Truckers, Association
P. O. Box 4-2417
Anchorage, Alaska 99503

Dear Mr. Dunham:

This is to notify you that the House Commerce Committee will discuss House Bill No. 832, Construction Contractor Exemption, on March 5, 1976 at 8:00 A.M. The meeting will be held in Room 628 of the Court Building.

Sincerely,

Representative Bob Bradley
Chairman, House Commerce Committee

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

TO: ATC DATE: 2/18

(~~SENATE~~ - HOUSE) BILL 832

RE: construction contractor (exemption)

Check One:

1. TOP PRIORITY - in favor of ____
2. FAVOR - in favor of, but not top priority X
3. OK - no definite stand ____
4. NOT IN FAVOR ____
5. TOP PRIORITY - "Strongly Opposed" ____
6. BILL DOES NOT PERTAIN TO DIVISION ____
7. Bill does not directly pertain to division, but I am interested in its progress. Keep me informed. ____

COMMENTS: (Justification must be stated for #1 - #6 above. Continue on another page if needed).

SEE ATTACHEMENT

RECEIVED
FEB 25 1976
STATE OF ALASKA
DEPARTMENT OF COMMERCE
AND ECONOMIC DEVELOPMENT

Received
FEB 20 1976
Alaska Transportation Commission

Writer's Signature: [signature]
Writer's Title: Director

(DEADLINE 24 hours)

(Note: Please return to Information Officer/Leg. Asst., Office of the Commissioner)

AS 42.10.020(4). Instead of the broad exemption presently granted to construction contractors by this statute, the revision will allow total utilization of the vehicles operated by construction contractors operating on the same project. A substantial number of persons have obtained general contractors licenses as a free pass to transport property for other general contractors without first having obtained a permit from the Commission as other carriers have had to do. This practice imposes a financial burden on permit holders who are subject to the Motor Freight Carrier Act and promotes destructive rate cutting, non-adherence to minimum safety and insurance standards. The limited staff of the Commission's enforcement section has not been able to cope with the increased workload this caused.

AS 42.10.420(12). The present statute allows contract carriers of bulk commodities in dump type equipment, who are also construction contractors, to intermingle their two businesses and equipment. Regulations are difficult, if not impossible, to enforce unless carrier and non-carrier identities can be established. Commission orders granting authority to operate as a carrier for-hire require the separation of business records between a person's carrier and non-carrier business. This conflicts somewhat with the existing statutory language. The removal of this section will not prevent a construction contractor, who is also an authorized carrier from taking advantage of the exemption in AS 42.10.020(4).

(REFER HOUSE BILL 832)

1. GENERAL INFORMATION

AS 42.10.130 reads: (a) ". . . no common carrier, contract carrier, or temporary carrier may operate for the transportation of property for compensation in the state without a permit . . ."

AS 42.10.420 Definitions. In this chapter (only the applicable terms listed)

(2) "common carrier" includes:

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(B) a person who leases, rents, or provides a motor vehicle for the use of another in transporting property, and who provides, procures, or arranges for, directly or indirectly, or by course of dealing, a driver or operator for the motor vehicle or the necessary authority for the use of it on a public highway, except when the motor vehicle is leased to an authorized common carrier or contract carrier or by a construction contractor as defined in (12) of this section to another construction contractor as so defined, under rules and regulations to be prescribed by the commission;

(C) a person engaged in the business of providing, contracting for or undertaking to provide transportation of property for compensation over public highways as a broker or forwarder;

(3) "contract carrier" includes all motor vehicles not included under the term "common carrier" or "private carrier" and includes any person who under special and individual contracts or agreements transports property by motor vehicle for compensation; contract carrier includes a person engaged in the business of providing, contracting, for or, undertaking to provide transportation of property for compensation over the public highways as a broker or forwarder;

(note: as a practical matter in the hauling of bulk construction materials in dump type equipment, the "contract carrier" functions in the same manner as the "common carrier" and is subject to the same basic regulatory laws.)

(4) "exempt carrier" means a person operating a vehicle exempted from certain provisions of this chapter under Sec. 42.10.420 of this chapter;

(7) "private carrier" is a person who, in his own vehicle, transports only property owned or being bought or sold by him in good faith when the transportation is on incidental adjunct to some other established primary private business, other than transportation, owned or operated by him in good faith, and also includes all persons who rent, lease, or otherwise provide a motor vehicle for use of others in transporting property, and who, in connection therewith, do not provide, procure, or arrange for, directly, indirectly, or by course of dealing, a driver or operator for the motor vehicle.

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> (12) "construction contractor" means a contractor licensed by the state as a general contractor under AS 08.18 to engage in and who is actively and regularly engaged in the business of constructing, repairing or removing any kind of private or public facility or structure and does not include "contract carriers" authorized to transport commodities in bulk in dump-type equipment unless the "contract carrier" is also actively engaged in the business of constructing, repairing or removing private or public facilities or structures as a licensed general contractor under AS 08.18.

AS Section 08.18.171 (2) - "Contractor" means a person who, in the pursuit of an independent business, undertakes or offers to perform, or claims to have the capacity to perform, or submits a bid for a p[illegible]ct to construct, alter, repair, move or demolish a building, highway, road, railroad, or any type of fixed structure, including excavation and site development and erection of scaffolding; a general contractor whose business operations require the use of more than two distinct trades whose work the general contractor superintends; the terms "general contractor" and "builder" are synonymous; a "specialty contractor" is a contractor whose operations do not fall within the definition of "general contractor".

2. PROPOSED CHANGES

House Bill amends AS Section 42.10.420 by adding a new paragraph to read:

> (13) "actively engaged in the business of constructing, repairing or removing private or public facilities or structures" means engaging in the business of and taking responsibility for erecting, installing, repairing or dismantling of facilities or structures as a primary business throughout the year; the term does not include hauling of structures of facilities whether disassembled or intact, nor does it include transportation of construction materials for another construction contractor.

3. PURPOSE OF AMENDMENT

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4. HISTORY OF "CONTRACTORS EXEMPTION"

During construction of the Anchorage-Fairbanks Highway the remoteness of the area created a problem of both economy and convenience best solved by the interchange of equipment. The Alaska Motor Freight Carrier Act prevented this practice but dump truck operators and contractors agreed to and sought a change in the law to permit this practice. Like other laws, times and conditions make them obsolete. The exemption of contractors from the law is certainly obsolete, if not in fact unconstitutional.

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Construction contractors owned vehicles are subject only to supervision and regulation of its safety of operation. Noncompliance subject to fine up to $150.

(2) Contract carriers must have identification signs on each vehicle, as prescribed by law. These signs can cost up to $80 each vehicle. Noncompliance subject to fine up to $150.
Construction contractor exempt.

(3) Contract carrier applicants for operating authority (permits) are required to submit (a) total fees of $90 (b) name and address (c) Alaska state business license number (d) record of affiliation with any other motor carrier in Alaska, the United States or Canada (e) type of service to be provided (f) types and amounts of insurance carried or to be acquired (g) current financial statement (h) type and number of pieces of equipment to be used (i) zones to be served (j) anticipated annual volume of business (k) experience (l) schedule of intended rates (m) prove service is essential to the public needs and interests and (n) statement he has read, understands and intends to comply with the Alaska Motor Freight Carrier Act, Alaska Administrative Code and Alaska Traffic Regulations.
Exempt specialty contractor required to submit (a) total fees of $50 (b) name and address (c) social security number (d) type of contracting activity (e) bond in the amount of $2000.

(4) Contract carrier subject to prescribed lease requirements. Violators subject to fine and costs of prosecution.
Construction contractor exempt.

(5) Contract carriers must carry current vehicle identification cards prescribed by state.
Construction contractor exempt.

(6) Contract carriers required to file and maintain tariff rates with commission. (see "Tariff " rate explained below). Construction contractor exempt.

"Tariff" rate explained . . . the hourly cost of operating a dump truck is based on a formula which includes costs for vehicle, taxes, license, insurance, fuel, etc., plus the actual Teamster labor rate package and an average of 950 maximum working hours per year. The resulting rate may after due process of law, become the minimum "tariff" permit holders are required to file with the Alaska Transportation Commission. This "tariff" rate then becomes the generally accepted rate used by the construction industry. It is the rate charged to the public.

It is worth noting that we are in full accord with the rate making process and requirement to file a minimum rate, although at this point it begins to work against us. For example, dump truckers working under the "contractors exemption" know we cannot by law, charge less than the published tariff and because they are not required to file rates, are free to cut rates enough to get the job. It is not difficult to see who works first and longest. In another situation, the construction contractor bids a job to the public using our published "tariff" plus his profit, overhead, etc, and can then hire dump truckers working under this "contractors exemption" for less than our filed rates or lease non permitted carriers at a "cut rate". Many other such variations are used.

Since it is generally agreed that 90% of the work done by dump truckers is done for construction contractors, we can also agree that our "tariff" is generally the minimum charged to the public so in either case the public pays the same and the only benefit is to the construction contractor.

6. CONCLUSIONS

It is worth noting that the construction industry in this state, or at least those doing the greater part of earth moving, is comprised of large and economically powerful construction operations. Conversely, the dump truck industry is comprised generally of many small operators whose economic power is such that they cannot hope to compete with that of the large construction concerns. Case in point . . . in the Alaska Dump Truckers Association 53% of our members operate 1 dump truck, 16% own 2, 19% - 3 to 5, 9% 6 to 10 and only 4 members have more than 10 trucks.

Given this situation, large construction companies operating dump trucks under the "contractors exemption" are free to bring their economic power to bear on the small dump truck operator and force him to work at non-compensatory rates, if he was to work at all, and effectively bankrupt or otherwise strangle an industry that is important to Alaska economy. The declaration of policy under Section 42.10.010 of the Alaska Motor Freight Carrier Act cites as its purpose to provide the shippers and receivers of freight in the state with a stabilized service and rate structure; to foster sound economic conditions among the carriers which will guarantee transportation in the public interest; to promote adequate, economical and efficient service by motor carriers, and reasonable charges without

unjust discrimination, undue preferences or advantages, or unfair or destructive competitive practices; to preserve the common carrier of commodities by motor carrier in the public interest; to improve and coordinate the relations between, and transportation by and regulation of, motor carriers and other carriers so that the highways of the state may be properly developed and preserved, and the public assured of adequate, complete, dependable and stable transportation service.

Further, under Section 42.10.120 the Alaska Transportation Commission is charged to administer and enforce all provisions of this chapter and may inspect the vehicles, books, and documents of motor carriers, and the books, documents, and records of persons using the service of the carrier, for the purpose of discovering discrimination, rebates, and other information pertaining to this chapter. The commission shall prosecute violations of this chapter.

It is the feeling of this Association that the "contractors exemption" (AS Sec. 42.10.420 (12) is inconsistent with the declared policy of the Alaska Motor Freight Carrier Act as was intended by the legislature when it was originally written and even when the "exemption" was added in 1970. As the "exemption" directly affects the dump truck industry it is our opinion that the "exemption" is unjust, unreasonable, preferential, prejudicial and that it creates an opportunity for a large segment of non-regulated carriers in Alaska to employ unfair competitive practices and to offer concessions or preferences to any shipper and thereby prejudice other users of the service. Users of dump truck service (which is 90% to construction contractors) to pit one carrier against another and could well adversely effect the economic condition of the entire industry.

Our 107 members seek to correct the unfair part of AS Sec. 42.10.420 (12) and ask your support in passage of House Bill 832.

ALASKA DUMP TRUCKERS ASSOCIATION, INC.

Richard E. Dunham
Executive Director

RED/ld

ALASKA DUMP TRUCKERS
ASSOCIATION, INC.

RICHARD E. DUNHAM
Executive Director

P.O. Box 4-2417
Anchorage, Alaska 99503
Phone: (907)272-0568

HOUSE BILL 832

HB 832 was introduced at the request of the Alaska Dump Truckers Association for the intended purpose of seeking equal application of regulatory laws for dump truck operators.

At the time of its adoption the Alaska Motor Freight Carriers Act required all trucks operating in the State to obtain operating authority with the exception of motor vehicles:

(1) "...operated exclusively in the transportation of United States mail...newspaper or periodicals..."

(2) "...owned and operated by the United States, the State, or a borough, city, etc..."

(3) "...not exceeding a total gross weight of 12,000 pounds, owned and operated by a rancher, farmer or dairyman..."

In 1970 the act was amended to exempt:

(4) "vehicles operated by a construction contractor..."

At the present time about 50% of dump truck work is done by persons operating under the "contractors exemption" and the balance by persons holding state permits.

This situation creates economic hardship and operational discrimination for those who in good faith subscribe to the laws of the State by holding operating authority.

The persons affected by HB 832 would continue to transport their own commodities in vehicles owned and operated by them but would be required to obtain operating authority to haul for others (as was intended by the original Alaska Motor Freight Carrier Act).

The procedures for obtaining State permits is simple and generally easy to obtain. Attesting to this is the fact that during the past 18 months 28 permits were applied for and 22 were issued. Further, the following is a quote from the Alaska Transportation Commission which reflects their attitude on the matter of permits:

> "Although the legislature includes some dump truck operations within certain of the economic regulatory provisions, including AS 42.10.130, it nevertheless appears that it has at the same time prescribed

virtually unlimited dump truck competition by the construction industry with the regulated carrier. The overriding mandate by the legislature appears to be that very little restriction is to be placed on availability of dump truck services to the construction industry..."

Finally, since it appears evident that persons who operate dump trucks for hire under the "contractors exemption" would have permits available to them, the principle effect of HB 832 would be the removal of a discrimination provision of law and place operators of dump trucks for hire on an equal economic and operational basis.

We ask your support by a yes vote on HB 832.

ALASKA DUMP TRUCKERS ASSOCIATION, INC.

Richard E. Dunham
Executive Director

RED/ce

HB 834

"An Act relating to liquor licenses."

COMMITTEE REPORT

HOUSE

2/19/76

Mr. Speaker: Date 2/27/76

The Committee on COMMERCE has had HB 834 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

(X) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

(X) "and" recommends it BE REFERRED TO THE Finance COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

	do not pass unless am.	

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends: DO NOT PASS

_____ recommends:

_____ recommends:

_____ Chairman

HB834, 735

Linda Brown ABC

High number of licensed already

People offended at sight of alcohol

Rural communities need to protect

Grocery store have competitive advantage

Enforcement of underage difficult

Rep. Huntington

Detrimental to villages. Income produced

communities that

than

Hughes, Alaska
99745
February 4, 1976

Gentlemen:

On February 3, 1976, a community meeting was held in the village of Hughes for the purpose of discussing the possibility of being joined to Bettles, Allakaket, and Tanana via twice weekly flights by Frontier Air Service. All village adults were represented in this meeting with the exception of three men absent on their traplines. All present were encouraged to express their views on this subject.

After considerable discussion it is the unanimous decision of the village of Hughes that we do not wish to be included in Frontier's proposal.

Most villagers feel it would be of benefit to have regular direct flights to Tanana, but we have no desire to establish a direct link with the community of Bettles Field. There are several reasons for this decision, but the most important deals with the fact that Frontier Flying Service owns and operates a package liquor store in Bettles. Although Frontier representatives have said that they would avoid carrying liquor on regular flights, we know that this service would locally increase alcohol consumption and have a negative impact on our community. We have much to lose by such a situation.

Over the past twelve months villages in this area have experienced numerous tragic deaths, injuries, and destruction of homes and property. The consumption of large amounts of alcohol has been a major contributing factor in all of these occurences. While we do not blame Frontier Flying Service for these disasters, it is a fact that most of the liquor in question was purchased in their store and transported on their chartered aircraft.

We, the people of Hughes, are trying to make our town a good place to live in and bring up our children. We do not want, at this time, a direct airline service to Bettles which we believe would hurt our village.

Sincerely,

Attachments: Signed petition

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

SIGNED PETITION TO ACCOMPANY VILLAGE LETTER DATED 2/4/76

Thomas E. Wagner

Lee O Sam

Barbara Bane

Floyd Boston

Leo Lind

HB 841

National Automatic Sprinkler
and Fire Control Association, Inc.

P.O. BOX 719 • 45 KENSICO DRIVE • MT. KISCO, N. Y. 10549 • (914) 241-2400

March 17, 1976

Representative Bob Bradley, Chairman
House Commerce Committee
State House
Juneau, Alaska

Dear Representative Bradley:

The members of the Legislature of the great State of Alaska should be commended for their forward looking posture they have assumed in the area of fire protection.

Recognizing that the members of the Legislature are willing to accept comments on pending legislation from industry as well as the fire protection community at large, we offer the following suggestion with respect to House Bills #818 and #841, for your consideration.

We suggest inserting the following at line 13 of both Bills, "This section does not apply to living units equipped with an approved automatic fire extinguishing system".

The reasons for this suggestion are many and we offer the following supportive documentation.

The National Safety Council some years ago issued the following statement, "automatic sprinkler systems provide the greatest single 'safety to life' feature available in the fire protection field. Not only can they sound an alarm, but, they will immediately start fighting the fire when activated. The automatic sprinklers are by far the most reliable and effective means of fire extinguishment. Other forms of protective equipment, as well as automatic alarms, have their special place, but, none can be an effective substitute for an automatic sprinkler system." It further states:

"An automatic alarm system is <u>not</u> a substitute for an automatic sprinkler system and should be considered only as a <u>necessary minimum</u>."

After studying numerous fires the National Fire Protection Assn. has incorporated the following conclusion in the Life Safety Code: "Experience shows that automatic sprinklers properly installed and maintained, are the most effective of any of the various safeguards against loss of life by fire."

In 1959 and 1960 the Ford Foundation's Educational Facilities Laboratories conducted a series of 228 fire tests in 5 Los Angeles schools. Among their conclusions were the following:

1) untenable smoke conditions invariably preceded untenable heat conditions in every test. Any deaths which could have occurred (by pre-established criteria) would have resulted from smoke and toxic gases, a by-product of combustion.
2) In every instance where complete automatic sprinkler protection was tested neither untenable smoke nor untenable heat conditions existed anywhere in the building.
3) Automatic smoke and heat detectors (automatic alarms) did not protect against loss of life in 29% of the cases in which automatic alarms were tested.

The National Fire Protection Association in its January 1974 Fire Journal, published an article entitled, The Effect of Structural Characteristics on Dwelling Fire Fatalities, by W. J. Christian, consulting engineer, Underwriters' Laboratories, Inc. From this analysis of 1 and 2 family dwelling fires nationwide, it was determined that, "....unconsciousness and incapacitation are the main reasons victims do not escape from dwelling fires." It was also determined that "A large percentage of fatal dwelling fires (36%) involve victims who would have been unable to escape even if they had been warned in time, and, apparently control of the generation and transmission of toxic fire products would be required to improve the survival chances of such occupants."

Smoke detection devices certainly do provide a limited amount of fire warning, but, an automatic sprinkler system accomplished much more. Each sprinkler in the system serves a duel purpose, first it responds individually to fire as a detector and then as an expellant of water which is the extinguishing agent, and, both acts are performed automatically.

It is my most sincere hope that you will review the above supportive documentation as it applies to the pending legislation. Should you have any questions please do not hesitate to contact me.

Cordially yours,

William G. Woodrow

William G. Woodrow
Regional Executive Coordinator

WGW/vjn
cc: Raymond J. Casey
Edward J. Reilly
John A. Viniello

HB 544

"An Act increasing the license fee for financial institutions; and providing for an effective date."

COMMITTEE REPORT

HOUSE

2/26/76 FINANCE

Mr. Speaker: Date 2-26

The Committee on COMMERCE has had HB 881 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

(X) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S – JUNEAU 99811

March 8, 1976

The Honorable Bob Bradley
Chairman
House Commerce Committee
Alaska State Legislature
State Capitol Building
Juneau, Alaska

Re: House Bill No. 844

Dear Mr. Bradley:

House Bill No. 844, an Act increasing the license fee for financial institutions was introduced in the House on March 26, 1976 and was referred to the House Commerce and Finance Committees.

For the consideration of the House Commerce Committee, I am enclosing a copy of a Fiscal Note and accompanying memorandum prepared by Gary L. Jenkins, Director, Audit Division advising of effect on Treasury and that there would be no additional cost of administration.

If you or any members of the House Commerce Committee have any questions on the material submitted, please telephone the writer at 465-2397 and I will contact Mr. Jenkins for further information or testimony at a hearing.

Very truly yours,

R. D. Stevenson
Special Assistant

Enclosures

cc: The Honorable Hugh Malone
Chairman
House Finance Committee

Gary L. Jenkins
Director, Audit Division
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
FISCAL NOTE
Second Session - Ninth Legislature

I. REQUEST

Bill No. House Bill No. 844

Title: An act increasing the license fee for financial institutions

Requested by: R. D. Stevenson Date: February 27, 1976

Return Date Requested: March 5, 1976

Agency: Department of Revenue Program:

II. FISCAL DETAIL

Budget Request Unit(s) Affected: None

A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	None	None	None	None	None	None

B. FUNDING: (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						

POSITIONS: None

MEMORANDUM State of Alaska

TO: R. D. Stevenson
Special Assistant

DATE: March 9, 1976

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenkins
Director
Audit Division

SUBJECT: House Bill No. 844

This bill would increase the business license tax on banks and other financial institutions from 7 percent to 9 percent. Based on the 1974 returns, this would have generated an increase in the amount of tax paid by banks of $231,849. The amount paid by banks for that year at the 7 percent rate was $811,472.

Since this tax is on the net income of the financial institutions, it is very difficult to predict an exact income increase in the future. There would be no additional cost of administration of the program.

GLJ:lc

Alaska State Legislature

House

JUNEAU ALASKA

March 11, 1976

MEMORANDUM

TO: Rep. Bob Bradley

FROM: Terry Berman
Administrative Assistant

SUBJECT: House Bill No. 844

House Bill No. 844 increases the license fee for financial institutions from seven to nine per cent of net income. The license fee is paid in lieu of income tax.

Raising the license fee will serve to correct an inequity that presently exists between banks and corporations. Corporations must pay a license fee amounting to approximately one-quarter of one percent of their gross profits and are also taxed on net income at an approximate rate of nine percent. Banking institutions pay only a flat seven per cent of their taxable income. If the fee is raised to nine percent the effective tax will be in line with that of corporations, creating a more equitable tax structure.

This fee increase will increase state revenues by over 200,000 dollars annually.

HB 845

Telephone 907/274-4726

George L. Benesch
Attorney at Law

608 West Fourth Avenue, Suite 30
Anchorage, Alaska 99501

March 10, 1976

Honorable Bob Bradley, Chairman
House Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Bradley:

I have reviewed a copy of House Bill No. 845 introduced by the House Commerce Committee. It is not apparent whether the bill is sponsored by the Committee, a few members of the Committee or whether it is in fact an Administration bill.

In any event, in my opinion, the bill can only be described as totally irresponsible.

I would appreciate it if you would see to it that I am informed of when public hearings are to be held on the bill. It is clear that the public interest and the purposes of transportation regulation have been completely overlooked.

Sincerely yours,

George Benesch

George L. Benesch

cc: Chairman, House Judiciary Committee

HB 876

Alaska State Legislature

House

JUNEAU ALASKA

March 31, 1976

MEMORANDUM

TO: Representative Bob Bradley

FROM: Jennifer Peterson, Secretary

SUBJECT: House Bill No. 876

As per the request of the Commerce Committee members, I contacted the Bureau of Indian Affairs concerning Native land allotments under the 1906 Land Allotment Act.

I talked with Mr. Joe Donahue of the Reality Division. He stated that under the Federal Act land allotments may not be taxed in any way. He gave the following statistics with regard to deeds:

Present deeds: 300
Tentative approval (subject to surveys): 1,000
Deeds presently on appeal status: 500
No decisions to date: 6,000

The above figures were approximations, however, he stated that the Bureau of Land Management could give more detailed information if necessary.

April 1, 1976

Miles Schlosberg
Division of Banking
Department of Commerce
Pouch D
Juneau, Alaska

Dear Mr. Schlosberg:

The members of the House Commerce Committee met on March 31, 1976 to discuss House Bill No. 876. At the conclusion of their discussion, they requested that others be notified of the bill and request comments.

The Commissioner of Revenue, Sterling Gallagher, testified before the committee in favor of the bill. Mr. Jamie Love, Executive Director of Alaska Public Interest Research Group, also testified in favor of the bill.

If you would like to comment on the bill, the committee will hold another hearing at a later date. Comments may be in person or in writing. The last day for receiving or delivery of testimony will be April 8, 1976. If you wish to send written testimony please send it to the following address:

Representative Bob Bradley
Chairman, House Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

I have enclosed, for your convenience, a copy of the bill and the fiscal note which was presented to the committee by the staff of the Department of Revenue.

If you have any questions regarding this bill, please do not hesitate to contact my office at 465-3889.

Sincerely,

Representative Bob Bradley

Enclosures

April 1, 1976

Mr. H. L. Hunt
Hunt Oil
425 G Street
Anchorage, Alaska

Dear Mr. Hunt:

The members of the House Commerce Committee met on March 31, 1976 to discuss House Bill No. 876. At the conclusion of their discussion, they requested that others be notified of the bill and request comments.

The Commissioner of Revenue, Sterling Gallagher, testified before the committee in favor of the bill. Mr. Jamie Love, Executive Director of Alaska Public Interest Research Group, also testified in favor of the bill.

If you would like to comment on the bill, the committee will hold another hearing at a later date. Comments may be in person or in writing. The last day for receiving or delivery of testimony will be April 8, 1976. If you wish to send written testimony please send it to the following address:

Representative Bob Bradley
Chairman, House Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

I have enclosed, for your convenience, a copy of the bill and the fiscal note which was presented to the committee by the staff of the Department of Revenue.

If you have any questions regarding this bill, please do not hesitate to contact my office at 465-3889.

Sincerely,

Representative Bob Bradley

Enclosures

April 1, 1976

Mr. Peter Zamarello
6126 Seward Highway
Anchorage, Alaska

Dear Mr. Zamarello:

The members of the House Commerce Committee met on March 31, 1976 to discuss House Bill No. 876. At the conclusion of their discussion, they requested that others be notified of the bill and request comments.

The Commissioner of Revenue, Sterling Gallagher, testified before the committee in favor of the bill. Mr. Jamie Love, Executive Director of Alaska Public Interest Research Group, also testified in favor of the bill.

If you would like to comment on the bill, the committee will hold another hearing at a later date. Comments may be in person or in writing. The last day for receiving or delivery of testimony will be April 8, 1976. If you wish to send written testimony please send it to the following address:

Representative Bob Bradley
Chairman, House Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

I have enclosed, for your convenience, a copy of the bill and the fiscal note which was presented to the committee by the staff of the Department of Revenue.

If you have any questions regarding this bill, please do not hesitate to contact my office at 465-3869.

Sincerely,

Representative Bob Bradley

Enclosures

April 1, 1976

Mr. Jack White
Jack White Real Estate
3201 C Street
Anchorage, Alaska

Dear Mr. White:

The members of the House Commerce Committee met on March 31, 1976 to discuss House Bill No. 876. At the conclusion of their discussion, they requested that others be notified of the bill and request comments.

The Commissioner of Revenue, Sterling Gallagher, testified before the committee in favor of the bill. Mr. Jamie Love, Executive Director of Alaska Public Interest Research Group, also testified in favor of the bill.

If you would like to comment on the bill, the committee will hold another hearing at a later date. Comments may be in person or in writing. The last day for receiving or delivery of testimony will be April 8, 1976. If you wish to send written testimony please send it to the following address:

Representative Bob Bradley
Chairman, House Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

I have enclosed, for your convenience, a copy of the bill and the fiscal note which was presented to the committee by the staff of the Department of Revenue.

If you have any questions regarding this bill, please do not hesitate to contact my office at 465-3889.

Sincerely,

Representative Bob Bradley

Enclosures

THE LEGISLATURE OF THE STATE OF ALASKA
FISCAL NOTE
Second Session - Ninth Legislature

I. REQUEST
Bill No. House Bill 876
Title: Land Gains Tax
Requested by: House Committee & Finance Date: March 19, 1976
Return Date Requested:
Agency: Revenue Program: Audit Division

II. FISCAL DETAIL
Budget Request Unit(s) Affected: Audit Division, Department of Revenue

A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100	PERSONAL SERVICES		71.2	134.6	148.0	162.8	179.0
200	TRAVEL		3.0	7.0	7.5	8.0	8.0
300	CONTRACTUAL		86.2	57.6	63.3	69.5	76.5
400	COMMODITIES		1.2	2.4	2.5	2.6	2.7
500	EQUIPMENT		6.4	---	---	---	---
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		168.0	201.6	221.3	243.0	266.2

B. FUNDING: (Thousands of dollars)

	GENERAL FUND		168.0	201.6	221.3	243.0	266.2
	FEDERAL FUNDS						
	OTHER						

C. POSITIONS:

	PERMANENT/TEMPORARY	/	8 /	8 /	8 /	8 /	8 /
	MAN MONTHS (F.Y.)	/	88 /	96 /	96 /	96 /	96 /

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. ATTACHMENTS See memo to W. D. Stevenson dated March 25, 1976.

V. DATE: March 25, 1976 PREPARED BY: [signature]
Deputy Director, Darrell D. Knox

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

R/S 50

02-0018 (REV. 06-73)

MEMORANDUM State of Alaska

TO: R. D. Stevenson
Special Assistant

DATE: March 26, 1976

FILE NO:

TELEPHONE NO:

FROM: Darrell D. Knox DDK
Deputy Director
Audit Division

SUBJECT: House Bill 876

Upon reviewing House Bill 876, Land Gains Tax, several areas were noted which should be clarified before passage of this bill. The following suggestions are offered for further consideration.

A. This Act amends AS 34 (Property) which concerns itself with Property provisions within the State of Alaska. However, the Act involves state taxes and revenues which maybe more appropriate in AS 43 (Revenue and Taxation).

B. Page 2 "AS 34.12.020(c)" The following words should be deleted since they are covered under the Federal Internal Revenue Code Section 1223. [IF a husband and wife are tenants by the entirety there may be added to the holding period the amount of time the land was held by one spouse alone before that spouse created the tenancy by the entirety. Notwithstanding a provision to the contrary under the Federal Internal Revenue Code, if a tenancy by the entirety is dissolved by reason of death, the holding period during the tenancy by the entirety will be added to the holding period of the surviving spouse owning the property in his or her own name.].

It is also suggested that "AS 34.12.020(d)" be deleted since it also is covered by the Federal Internal Revenue Code Section 1223.

C. Page 3 "AS 34.12.020(f)" This section would allow certain tax free exchanges which would be recognized at some future date. We suggest that the gain be completely recognized when the taxpayer leaves the State of Alaska. This is due to the fact that once the taxpayer leaves the state it is almost impossible to locate the taxpayer when the gain is recognized for Federal purposes.

D. Page 3 "AS 34.12.020(g)" If the intent of this Act is to tax each land gain transaction separately then there is no problem. However, if the intent of this Act is to combine all land transactions of a given taxpayer then there is no provision to offset any loss transaction. We suggest that this provision address itself to specifically what the intent maybe, which excludes all operating losses and land transaction losses or to include certain losses.

E. Page 5 "AS 34.12.040(e)" We suggest adding the following phrase. "...At the time a payment is made to the seller or transferor, the amounts withheld shall be remitted within 10 days by the buyer or transferee to the commissioner."

F. Page 6 and 8 "AS 34.14.050 and AS 34.12.100" Both deal with penalties and violations; it is suggested that they be combined under one section for convenience.

G. Page 7 "AS 34.12.080" Requires a separate Shared Revenue program to be generated. Cost of Administration is noted in the Effect on Treasury section of this memorandum.

H. Page 8 "AS 341.12.100(a)" We suggest the word misdemeanor be changed to felony. This would provide better compliance of the Act.

I. The compliance work required on this Act is viewed at this point in time as rather extensive due to the nature of the tax and background needed to provide for proper auditing of these transactions. There are many transactions under this chapter which occur in Alaska which would have to be properly examined. At the present time we foresee the following personnel requirements to perform all the compliance of this Act.

One(1) Clerk II for filing returns and information
One(1) Clerk Typist III for correspondence
Two(2) Tax Examiner II for basic compilation of return information
Two(2) Revenue Auditor II for performing office audits on returns and field audits under the direction of a Revenue Field Auditor I
One(1) Revenue Field Auditor to perform as a working supervisor of the land tax section, and lead all audit activity.

Effects on the Treasury

Because of the limited statistical information readily available to us on this type of transaction no estimate of revenues generated by this Act is provided.

Estimated administrative costs of this program:

1. Shared Revenue program;

(a) Systems design and programming costs approximately $50,000 (one time cost).

(b) One(1) Accountant II (full-time) with related benefits, equipment and commodities.

2. Audit Program - Seven(7) personnel as noted previously in report.

TOTAL ADMINISTRATIVE COST (A)

FY 77	$158,000	(Six Months Only)
FY 78	$201,600	
FY 79	$221,300	
FY 80	$243,000	
FY 81	$266,200	

(A) Inflation rate of 10% assumed.

DDK:lc

HB 916

"An Act making a special appropriation to the Alaska Educational Broadcasting Commission; and providing for an effective date."

COMMITTEE REPORT

HOUSE

4/19/76 FINANCE

Mr. Speaker: Date 4/23/76

The Committee on COMMERCE has had HB 916 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

Alaska State Legislature

House

JUNEAU ALASKA

April 23, 1976

MEMORANDUM

TO: Representative Bob Bradley
Chairman, House Commerce Committee

FROM: Terry Berman
Administrative Assistant

SUBJECT: House Bill No. 915

In December, at a meeting of the Public Broadcasting System, a non-profit nation-wide educational television system, it was decided to set up a system of earth stations for its members. Each member station was to pay $25,000 as its share toward the project.

In Alaska, there are three television stations involved in the project; KAKM in Anchorage, KUAC in Fairbanks and KYUK in Bethel. At present, the stations depend on video-tapes. The earth stations will not only allow them to receive live broadcasts, but to transmit them to other stations as well.

The $25,000 will ultimately lead to ownership of the individual earth stations by the television stations.

HCR 27

Relating to exploratory talks with Canadian officials concerning a possible connection between the Alaska Railroad and the Canadian railway system.

3/3/75

COMMITTEE REPORT

HOUSE

Mr. Speaker: Date 3/20/75

The Committee on COMMERCE has had HCR 27 under consideration. A Majority of the members of the Committee

(X) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

HER 27

Tape #	Date
15	3/20

Alaska State Legislature

HOUSE OF REPRESENTATIVES

COMMITTEES

EDUCATION
RESOURCES
HEALTH & SOCIAL SERVICES

REPRESENTATIVE LESLIE E "RED" SWANSON

HOUSE DISTRICT 19

POUCH V
JUNEAU, ALASKA
99811

P.O. BOX 3
NENANA, ALASKA
99760

6

April 5, 1975

Dr. William R. Wood
Executive Vice President
FIDC
619 Eleventh Ave.
Fairbanks, Alaska 99701

Dear Dr. Wood:

The resolution before you is but one early step in a logical chain of events we must set in motion as soon as possible. The purpose, of course, being to obtain the maximum value from our natural resources and a healthy economy for the residents of our state.

Immediate purpose of the resolution is to bring here for talks some influential men of industry who have expressed interest in developing those resources, and the necessary transportation system which must accompany that development. Ways and means of doing so will be the subject for discussion.

A secondary purpose is to make the world of commerce aware of the possibilities for and our interest in such industrial development.

I might add at this point that the program I am proposing for the opening of the potential treasure house of eastern Alaska has been discussed with Gov. Jay Hammond and received a generally favorable response from him.

Now the key to unlocking the resource wealth of interior Alaska, as I see it, is a railway link to the great commercial centers of the United States. At least one large industrial operation to provide an assured base traffic load is necessary, if we are to bring about construction of this rail link.

A world scale oil refinery, processing 100,000 barrels per day, or even more, of North Slope royalty oil would provide such a base load of products. The logical location--and it has the support of the community--would be the Big Delta area. There the refinery will have ready access to both the Trans-Alaska crude oil line and the Haines-Fairbanks fuel pipeline.

Through the products line, fuel to supply Alaska's needs could move north to Fairbanks and south to the Haines tank farm for trans-shipment to every part of the state or the U.S..

The surplus, and major part, of the production--at least in the early years--would travel by rail cars for distribution throughout the rich midwest fuel market.

There is no question in my mind but that the availability of this fuel would stimulate new domestic development and an expanded local market for the refinery's production. It would also bring about development of other resources, both renewable and finite, to improve our economy and increase rail traffic. That, in turn, could result in lower freight rates for incoming goods.

For instance, the community of Whitehorse has already expressed strong interest in obtaining fuel should a refinery and the Haines pipeline be activated.

Availability of a large, nearby supply of residual, or "Bunker C", fuel could spell the difference in the now marginal economic balance and lead to the development of the Klukwan iron ore deposit north of Haines.

In addition to other basic minerals of interest--ranging from asbestos to uranium--in the region affected by the proposed rail and refinery system, there are renewable resources to be developed. Billions of board feet of merchantable timber stands, several million acres of farm land and almost unlimited tourism attractions are waiting for full commercial utilization.

The linking of a basic petrochemical plant to the refinery could, for example, bring production of a ready supply of ammonium nitrate. This versatile chemical could be used as explosives for extracting minerals, as fertilizer to restore disturbed lands and cultivate the vast agricultural lands, or it could be shipped outside by rail car as feedstock for more complex petrochemical plants.

I should also point out that even the simplest processing within the state increases many-fold the real value of any basic resource that is being extracted. As a crude yardstick we can probably assume a 10-fold geometric progression in value with each added stage of processing or refining of our mineral resources.

The railroads of western Canada already have a well-developed tourist passenger traffic. By extending this transportation system into Alaska we could expect a new visitor traffic pattern equal in volume to that of the airlines or tour ships. The currently proposed extension of the Alaska railroad through the Tanana Valley and on to the westward could only expand and increase both the tourist and freight volumes.

Therefore, for these logical reasons, I am proposing that we invite officials of the Canadian National Railroad, Dow Chemical Co., Koch Industries, and the White Pass and Yukon Railway to a meeting at which we can examine ways of achieving this purpose.

I have been in recent contact with these firms and all have expressed definite interest in these development concepts.

I further propose that the Secretary of Transportation be asked to send representation to the meeting. Especially do we need a spokesman for the Alaska Railroad present. It would also seem appropriate to invite other companies, such as Tesoro Petroleum Corp. and Phillips Petroleum Co., that have previously expressed a desire to obtain North Slope royalty oil from the state.

To sum up, it is my strong belief that only through packaged development, such as I propose here, can we succeed in building a broad, healthy economic base for most of interior Alaska.

It is my absolute conviction that construction of such a broad commercial base is vital for the welfare of our future heirs to this land.

So great is the danger to any state in relying on a single resource income base that it has prompted the Arab

leaders and their OPEC partners to risk global catastrophe--
and world war three--in order to escape just such a trap
as is now threatening to close about our state.

Sincerely yours,

Leslie E. Swanson
State Representative

LS/jr

HCR 72

Requesting the extension of "800" toll-free telephone numbers to Alaska.

COMMITTEE REPORT

1/13/76

HOUSE

Mr. Speaker: Date _____

The Committee on COMMERCE has had HCR 72 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

STATE OF ALASKA

DEPARTMENT OF ECONOMIC DEVELOPMENT

JAY S. HAMMOND, Governor

DIVISION OF TOURISM / POUCH E — JUNEAU 99801

April 9, 1975

Representative Helen D. Beirne
Pouch V
State Capitol
Juneau, AK 99811

Dear Helen:

Re our recent dinner table conversation about the desirability of having toll free long distance numbers apply to Alaska, here are some thoughts you may find useful for further study.

The system of 800 numbers within the Lower Forty-Eight has made the problem of reservations for all forms of travel much easier for the traveling public. Under the 800 system an operator, such as Travelodge Hotels, obtains an 800 number. In the case of the Travelodge operation, the number is area code 800 255-3050. All you have to do from any part of the United States (except Alaska and Hawaii) is dial area code 800 and then the number 255-3050. Travelodge pays the cost of the station to station call from wherever you are calling. The same system applies to virtually all airlines, cruise ship companies, hotels, car rental firms and similar organizations dealing with the traveling public.

Within Alaska, we have a smaller version of the 800 number in the so-called ZENITH number. With a ZENITH number you can call toll-free in-state. For example, you can call Western Airlines in Anchorage toll-free by calling Zenith 6000. However, as yet this number cannot be dialed. You have to go through the operator.

It would be helpful for the development of tourism in Alaska if operators in Alaska could have 800 numbers so that customers could call direct from any point in the United States and have the call automatically billed to the holder of the 800 number. The same, of course, would work in reverse for Alaskans calling 800 numbers in the Lower Forth-Eight.

One major State user of 800 numbers would be the Marine Highway System. Under the 800 system travel agents and individual travelers could make their reservations by calling toll-free. Such a number could be established in Seattle, where 800 numbers are alread available. The service could be moved to Alaska at such time as 800 numbers are available in Juneau or elsewhere in the State.

This is in reference to our verbal conversation of House Concurrent Resolution No. 62, I would like to the state the following in support of the same:

The State of Alaska, Department of Public Safety, Bureau of Traffic Safety has been mandated to write & distribute a Debris Removal Manual. We are presently in the stage of editing and gathering further information for the publication of this little booklet. It is designed to help throughout the State of Alaska, Governmental Agencies, Institutes and just the regular Joe Doe on the street to contact the proper authorities for cleanup and to report hazardous materials etc. Among all the numbers which will be listed is one called the toll free number for CHEMTREC. CHEMTREC in itself is an agency which provide vital information as to dangerous materials people come in contact with and how to deal with them should a problem occur. It is important for us to be able to list this number as toll free rather than ask the people to call collect. As we all know collect phone calls take time and time with a problem through CHEMTREC can mean a life safer. Time is of great essence, therefore we are particularily interested that the resolution will be favorably considered and the toll free system will be implemented soon.

If further information is required we will be happy to furnish more.

Sincerely,

BUREAU OF PUBLIC SAFETY

Maria Iverson

Maria Iverson
5/2/75
Juneau, Alaska

Alaska State Legislature

House

JUNEAU ALASKA

This is to notify you that the House Commerce Committee will hear testimony on HCR 72, "Requesting the extension of '800' toll-free telephone numbers to Alaska" on January 30, 1976 at 8:00 A.M. The meeting will be held in Room 628 of the Alaska Court House Building in Juneau.

If you cannot present oral testimony at the hearing, the committee will accept written comments for their consideration.

Sincerely,

Representative Bob Bradley
Chairman, House Commerce Committee

~~Call Gordon Parker on Susan Kos~~
~~I+I Rep + where~~

Jennifer ⓠ People to be notified of hearing on HCR72, Friday January 30

1 Terry Quinn Juneau Douglas Tel. Co.
Pouch E 2 Dick Montague Division of Tourism
3 Steve Heller Terry Marsh RCA Alascom
4 Susan Koslofsky/ Dir. RCA Alascom 272-8411
Pouch AC 5 Governor's office on Telecommunications
Pouch N 6 Charley Smith- Public Safety Federal Projects Coordinator
7. Henry Pratt - lobbyist for RCA ~~Juneau~~
% Caravof N Room 322 127 Franklin

Jerry Quinn, Manager
Juneau-D Telephone
P.O. Box 2008
Juneau. Ak 99803

~~Jenth~~ 9000 RCA Alascom.
629 E ~~Street~~
Anch 99501

Letters sent
1-23-76

HCR 100

Relating to electric and gas utility regulations.

COMMITTEE REPORT

2/17/76

HOUSE

Mr. Speaker: Date 5/26/76

The Committee on COMMERCE has had HCR 100

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

Lisa Rudd		

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

Alaska State Legislature

House

JUNEAU ALASKA

March 10, 1976

MEMORANDUM

TO: Rep. Bob Bradley

FROM: Terry Berman
Administrative Assistant

SUBJECT: HCR 100

The dramatic increase in utility rates has prompted us to think about the structure of the rates themselves. Currently, in Alaska, they work to the advantage of large consumer's with industrial users paying less per kilowatt hour than small consumers.

The heavy industrial use of utilities leads to capital expansion the cost of which is then passed on to the customer. With the existing rate structure, the residential consumer is forced to pay higher rates even when he was not responsible for the new facilities that drove up his utility bill. Because of high construction costs, increased demand can be costly to the small user of electricity, whose needs are adequately met by existing facilities. In reality, the residential customer subsidizes the industrial user.

House Concurrent Resolution 100 asks that rates be looked at more carefully so that wasteful practices not be encouraged by the rate structure itself. If an industrial user buys service in bulk, there is no incentive to not waste energy.

Various price structures that are more equitable have been implemented in both the United States and abroad. These encourage the most efficient use of energy. One concept is a progressive rate structure with rates increasing with increased consumption. Another is varying rates according to the demand of the time of day or season. If consumption is responsive to price, the need for capital expenditures may be eliminated and keep the price of utility service stable.

The resolution asks that a study be undertaken to find the most equitable rate structure for Alaskans. With this information, we might be able to resolve some of the conflicts that are currently raging between the utility companies and consumers, with benefits to both.

Jim - Hold for receipt of resolution

Alaska State Legislature

LEGISLATIVE AFFAIRS AGENCY

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

Resolution Needed

MEMORANDUM

January 16, 1976

SUBJECT: Utility Rates (Work Order #1629)

TO: The Honorable Robert Bradley

FROM: James Owers, Research Analyst
(with Gregg Erickson, Director of Research Services)

The following summarizes some of the issues raised by your request for a study of utility rates.

As an example of present pricing practices, I have used the tariff schedule of the Chugach Electric Association for service in the urban areas of Anchorage prior to their request for a permanent rate increase. The tariff schedule distinguishes four classes of users: general residential service, residential service--large use, commercial light and power, and industrial and commercial large power. As is typical with the practice of most utilities, the rates are designed to favor the bulk use of electric power through what is known as a "declining block rate structure." For example, the first 500 kilowatt hours for a large industrial user cost 2.3 cents per KWH, the next 2,500 KWH cost 1.9 cents per KWH, the next 17,000 KWH cost 1.5 cents per KWH and over 20,000 KWH cost 1.0 cent per KWH.

In addition to these charges, large industrial and commercial users must also pay a "demand charge." In essence, the demand charge is a reflection of the fact that an electric utility must always maintain a certain standby capacity in generators, transformers, and transmission lines to meet the peak demands of a large industrial user. Chugach Electric charges large industrial and commercial consumers $1.50 per kilowatt each month, based on the peak during that month, for the first 50 KW and $1.25 per KW for each additional KW over 50 KW of peak demand.

Thus, the minimum monthly bill for a large user is in this case likely to be a function of his peak demand over some period of time. For this reason, at certain times of the year, a user with widely fluctuating demand for electric power over the year might be faced with a large minimum bill in an off season. For example, a manufacturer who has all his employees take their vacation at the same time and shuts down during that period would have little if any incentive to curtail

power consumption during the period of closure. This could possibly stimulate some waste of electricity. However, this is probably not the reason why many buildings leave lights on during off hours. In the past, structures have occasionally been designed so that the lighting system is itself an integral part of the building's heating system. In such buildings, heat generated by the lights is sometimes necessary to maintain internal temperatures at acceptable levels. Like all electric heat installations, the thermal efficiency of such systems is quite low compared to direct on-site burning of the fuel.

More often, though, the reasons lights are left on are related to a lack of forethought in electrical system design. For example, switches may not be located near exits, or large banks of lights may have to be lit in order to illuminate the office of one "night owl." If sufficient financial incentive exists in the rate structure, efforts will be made to overcome these design induced problems, and in extreme cases it may even make economic sense to rewire a building with this in mind. The amount of electricity saved could be considerable. Nationwide, it is estimated that commercial high rise structures use 50% of the electricity generated. Legislation might also mandate electrical system designs that make it convenient to cut lighting when not required.

As was mentioned above, peak use demand charges may eliminate the incentive for a large consumer to conserve power during the part of the year (or month) when demand is low. Similarly, any consumer faced with a minimum bill is being offered some measure of "free" consumption, in the sense that he will pay for a given amount of power whether he uses it or not.

Bulk consumption discounts and minimum bills are justified by utilities on the grounds that a substantial amount of fixed capacity is necessary to serve any given customer regardless of whether he actually consumes power or not.

If power demand were less variable, then the costs of maintaining generating plant and distribution facilities could be spread over a larger quantity of power, and thus the average cost per kilowatt could be reduced. The device of the demand charge does penalize consumers who draw large quantities of power for very short periods of time, and who thus require the year-round maintenance of substantial facilities, but they do not reflect the fact that peak consumption by a given consumer at a time of day when the demands from other customers are low can be supplied with little or no additional investment. "Time of day pricing" has been suggested as a means of bringing about the desired evening out of electrical loads, and of more accurately reflecting the real costs of providing electrical energy to various consumers. In the past there have been technical problems with respect to metering of electricity which made this type of rate structure difficult to implement, but these have been overcome, and such a system is now operative

in a number of areas, for example, Madison, Wisconsin.* Of course, time of day pricing has been practiced for many years by other utilities, i.e., telephones. Although it would certainly require some further study, there may very well be steps that the legislature could take to encourage this type of rate alignment.

Over all, it is probable that electrical utility rates have lagged behind changes in operating conditions and no longer as accurately reflect costs. The idea behind the declining block rate structure has been that the utility company can recoup all its fixed overhead costs on the first few blocks. From then on, further use of electricity involves costs which vary directly with the amount of out-put, such as fuel costs. Until recently, fixed costs in the utility business were high compared to variable costs, but as fuel charges have risen, out-put costs have taken up an increasing share. Even though this is true, recent rate increases in Alaska have applied a fixed percentage to all rates rather than address the fundamental fact that the nature of costs have shifted. This means that small users may subsidize a large user. Here again, further study would be necessary, but if you consider it appropriate we could look at possible legislative means of encouraging an appropriate restructuring of electrical utility rates in order to take these new conditions into account. Such changes might be expected to curtail the kinds of wasteful practices as you mention in your work request.

GE/JO:jm

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* In the case of a Washington, D.C., utility it was discovered that the institution of time of day pricing would make unnecessary the expansion of generating plant that had been advocated by the utility company.

PSC No. 8 Original Sheet No. 42

Cancelling

Sheet No.

RECEIVED

JAN 9 1973

State of Alaska
Public Utilities Commission

TARIFF NO. 1

CHUGACH ELECTRIC ASSOCIATION, INC.

Anchorage, Alaska

SCHEDULE OF CHARGES

FOR ELECTRIC SERVICES APPLICABLE

IN THE

URBAN AREAS

OF THE

GREATER ANCHORAGE AREA BOROUGH

Effective: Feb 9 1973

Issued by: Chugach Electric Association, Inc.
P. O. Box 3318

By: L. J. Schultz Title: General Manager

APUC
Tariff No. 8 2nd Revision Sheet No. 43

Cancelling
1st Revision Sheet No. 43

RECEIVED
JUL 1 1975
State of Alaska
Public Utilities Commission

CHUGACH ELECTRIC ASSOCIATION, INC.

SCHEDULE NO. 1

GENERAL RESIDENTIAL SERVICE

Available for customary and ordinary residential use and incidental domestic power. Nominal voltage is 120 volts and 120/240 volts, single phase.

Monthly Rate

First	50 KWH	at 7.0¢ per KWH
Next	200 KWH	at 3.5¢ per KWH
Next	500 KWH	at 2.2¢ per KWH
Next	750 KWH	at 1.9¢ per KWH
Over	1,500 KWH	at 1.6¢ per KWH

Minimum Bill--$3.50

Conditions

1. Above service provided subject to CEA rules and regulations.

2. These schedules are restricted to service used exclusively for general domestic and household purposes, as distinguished from commercial, industrial and other uses.

3. These schedules apply only to single family dwellings and other separately metered dwelling units.

4. These schedules will be applied to each meter at point of delivery and in no event will meter readings be combined.

Effective: NOV 6 1975

Issued by: Chugach Electric Association, Inc.
P. O. Box 3518 - Anchorage, Alaska 99501

By: L. I. Schultz Title: General Manager

/ AFUC
Tariff No. 8 2nd Revision Sheet No. 44

Cancelling
1st Revision Sheet No. 44

RECEIVED
JUL 1 1975
State of Alaska
Public Utilities Commission

CHUGACH ELECTRIC ASSOCIATION, INC.

SCHEDULE NO. 2

RESIDENTIAL SERVICE - LARGE USE D

NOV 6 1975

Effective:

Issued by: Chugach Electric Association, Inc.
P. O. Box 3518 - Anchorage, Alaska 99501

By: L. J. Schultz Title: General Manager

RECEIVED
JUL 1 1975
State of Alaska
Public Utilities Commission

CHUGACH ELECTRIC ASSOCIATION, INC.

SCHEDULE NO. 3

COMMERCIAL LIGHT AND POWER
(Not Exceeding 10 KW)

Available for general commerical use. Nominal voltage shall be 120/240 or any other user voltage available.

Monthly Rate

First	100 KWH	at 5.0¢ per KWH
Next	400 KWH	at 3.2¢ per KWH
Next	1,000 KWH	at 2.8¢ per KWH
Next	1,500 KWH	at 2.6¢ per KWH
Over	3,000 KWH	at 2.3¢ per KWH

Minimum Bill - $3.50

Conditions

1. Above service provided subject to CEA rules and regulations.

2. These schedules apply to general lighting, incidental power and other services used by commercial and industrial enterprises and by multiple dwelling units when supplied through one meter. A residential service through which a rental unit is likewise served will be billed pursuant to this schedule.

3. These schedules will be applied to each meter at point of delivery, as appropriate, and in no event will meter readings be combined.

4. CEA shall provide a demand meter for a consumer when his monthly use exceeds 3,000 KWH, or if his maximum demand is estimated to be in excess of 10 KW. All consumers with maximum 15-minute integrated demands in excess of 10 KW will be billed under the Commerical and Industrial Service rate schedules.

Effective: NOV 6 1975

Issued by: Chugach Electric Association, Inc.
P. O. Box 3518 - Anchorage, Alaska 99501

By: L. J. Schultz Title: General Manager

RECEIVED
JUL 1 1975
State of Alaska
Public Utilities Commission

CHUGACH ELECTRIC ASSOCIATION, INC.

SCHEDULE NO. 4
(11 KW - 50 KW Incl. - Rev. Acct. 442.1)

SCHEDULE NO. 54
(Over 50 KW - Rev. Acct. 442.2)

INDUSTRIAL AND COMMERCIAL LARGE POWER

Available for industrial and commercial uses, including lighting, heating and power. Available at 120/240 volts, single phase; 120, 240, 480, 120/208, 2,300/4,160 and 7,200/12,470 volts, three phase.

Monthly Rate

Demand Charge:
First 25 KW of Billing Demand at $2.20 per KW
Over 25 KW of Billing Demand at $1.70 per KW

Energy Charge:
First 100 KWH per KW of Billing Demand at 2.3¢ per KWH I
Next 200 KWH per KW of Billing Demand at 1.6¢ per KWH
Over 300 KWH per KW of Billing Demand at 1.0¢ per KWH

Billing Demand - The billing demand shall be the maximum 15-minute integrated demand in the billing month.

Minimum Monthly Bill - The highest demand charge established in the preceeding 11 months, including any adjustment for power factor, but in no case less than $0.75 per KVA of installed transformer capacity.

Electric Space Heating Rider D

Effective: NOV 6 1975

Issued by: Chugach Electric Association, Inc.
P. O. Box 3538 - Anchorage, Alaska 99501

By: L. J. Schultz Title: General Manager

RECEIVED
JUL 1 1975
State of Alaska
Public Utilities Commission

CHUGACH ELECTRIC ASSOCIATION, INC.

SCHEDULE NO. 80

INDUSTRIAL AND COMMERCIAL LARGE POWER - SINGLE METER ELECTRIC HEAT
(50 KW - 300 KW)
Not Available For New Service

Available north of the Rabbit Creek Substation to commercial and industrial consumers for electric space heating where utilized in addition to normal lighting, water heating, and other general electric use.

This rate is only applicable to those consumers receiving service as of July 1, 1975.

Available at 120, 240, 480, 120/208, 2,400/4,160, and 7,200/12,470 volts, three phase.

Rate

First 20,000 KWH per month at	2.1¢ per KWH
Excess of 20,000 KWH per month at	1.4¢ per KWH
Minimum Charge - $150.00 per meter per month	

Conditions

1. Service provided subject to CEA rules and regulations.

2. If metering is on primary side of the transformer, the measured KWH will be decreased by 3% to reflect credit for transformer loss incorporated into schedule.

3. If service is received at 480 volts, the consumer will furnish and install on his premises the transformers necessary for any service at a lower voltage.

Effective: NOV 6 1975

Issued by: Chugach Electric Association, Inc.
P. O. Box 3518 - Anchorage, Alaska 99501

by: L. J. Schultz Title: General Manager

Rate No. 8 2nd Revision Sheet No. 54
Cancelling
1st Revision Sheet No. 54

RECEIVED
JUL 1 1975
State of Alaska
Public Utilities Commission

CHUGACH ELECTRIC ASSOCIATION, INC.

SCHEDULE NO: 5

SERVICE TO CHURCHES AND SCHOOLS

Available for school and church uses, including lighting, heating and power. Available at 120/240 volts, single phase; 120, 240, 480, 120/208 volts and primary voltage, three phase.

Monthly Rate

Demand Charge:
First 25 KW of Billing Demand at $1.90 per KW
Over 25 KW of Billing Demand at $1.40 per KW

Energy Charge:
First 150 KWH per KW of Billing Demand at 2.5¢ per KWH
Next 150 KWH per KW of Billing Demand at 1.7¢ per KWH
Over 300 KWH per KW of Billing Demand at 1.2¢ per KWH

Billing Demand - The billing demand shall be the maximum 15-minute integrated demand in the billing month.

Minimum Annual Bill - $9.00 per KVA of installed transformer capacity. If at the end of twelve months the total charges from the above rates are less than the minimum annual charge, a charge for the difference shall be added to the bill for the twelfth month.

Conditions

1. Above service provided subject to CEA rules and regulations.

2. The maximum demand will be measured by a meter or indicator furnished and installed by CEA on a meter base furnished and installed by the consumer.

Effective: NOV 6 1975

Issued by: Chugach Electric Association, Inc.
P. O. Box 3518 - Anchorage, Alaska 99501

By: L. I. Schultz Title: General Manager

APUC
EPSC No. 121 Original Sheet No. 102

Cancelling

Sheet No.

RECEIVED

APR 26 1974

State of Alaska
Public Utilities Commission

SCHEDULE 11
RESIDENTIAL SERVICE

Applicable to:

Single-family dwellings, for domestic and household purposes.

Character of Service:

Single phase 60 hertz alternating current at 120/240 volts.

Monthly Rate:

First 50 Kwh at 5.5¢ per Kwh

Next 200 Kwh at 3.0¢ per Kwh

Over 250 Kwh at 1.7¢ per Kwh

Minimum Monthly Charge: $2.00

Conditions:

This schedule may be applied to a home occupation conducted in the single-family dwellings by the family members if the demand and energy consumption created by the business is less than and incidental to the demand and energy consumption of the residential load.

Effective: MAY 26 1974

Issued by: Municipal Light & Power Department
City of Anchorage

By: Carroll G. Oliver Title: Utility Manager

APUC
F.P.S.C. No. 121 Original Sheet No. 103

Cancelling

Sheet No.

RECEIVED

APR 26 1974

State of Alaska
Public Utilities Commission

SCHEDULE 12

RESIDENTIAL SERVICE
WITH WATER HEATING

Applicable to:

Single-family dwellings with electric water and/or space heating, for domestic and household purposes.

Character of Service:

Single phase 60 hertz alternating current at 120/240 volts.

Monthly Rate:

First 50 Kwh at 5.5¢ per Kwh

Next 200 Kwh at 3.0¢ per Kwh

Next 750 Kwh at 1.2¢ per Kwh

Over 1000 Kwh at 1.5¢ per Kwh

Minimum Monthly Charge: $2.00

Conditions:

1. This schedule may be applied to a home occupation conducted in the singe-family dwelling by the family members if the demand and energy consumption created by the business is less than and incidental to the demand and energy consumption of the residential load.

2. Water shall be heated by a storage tank type electric water heater of at least thirty (30) gallons capacity with non-inductive heating elements of not more than 5000 watts capacity.

MAY 2 0 1974
Effective

Issued by: Municipal Light & Power Department
City of Anchorage

By: Carroll G. Schaai Title: Utility Manager

APUC
P.S.C. No. 121 Original Sheet No. 105

Cancelling

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APR 26 1974

State of Alaska
Public Utilities Commission

SCHEDULE 13

RESIDENTIAL WATER
HEATING SERVICE

Applicable to:

Separately metered water heaters in single-family dwellings, for domestic and household purposes.

Character of Service:

Single phase 60 hertz alternating current at 120/240 volts.

Monthly Rate:

First 175 Kwh -- $3.50

Over 175 Kwh at 1.8¢ per Kwh

Minimum Monthly Charge: $3.50

Minimum Annual Charge: $42.00

Conditions:

1. Service to the water heater shall be separately metered.

2. The water heater shall be an insulated storage type tank of 30 gallons minimum capacity with two non-inductive elements termostatically controlled with a double-throw thermostat.

3. Service under this schedule is not available to new customers after July 15, 1956.

Effective: MAY 2 6 1974

Issued by: Municipal Light & Power Department
City of Anchorage

By: Carroll A. Shiver Title: Utility Manager

APUC
PSC No. 121 Original Sheet No. 106

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State of Alaska
Public Utilities Commission

SCHEDULE 14

GENERAL SERVICE
WITH SPACE HEATING

Applicable to:

Dwellings or commercial establishments where electricity is used as the main source of space heating and the demand does not exceed 40 kilowatts.

Character of Service:

Single phase 60 hertz alternating current at 120/240 volts.

Monthly Rates:

For all energy used between the hours of 7:00 a.m. and 7:00 p.m. -- 2.0¢ per Kwh

For all energy used between the hours of 7:00 p.m. and 7:00 a.m. up to the amount used between 7:00 a.m. and 7:00 p.m. -- 1.0¢ per Kwh

For all energy used between the hours of 7:00 p.m. and 7:00 a.m. in excess of the amount used between 7:00 a.m. and 7:00 p.m. -- 0.6¢ per Kwh

Minimum Monthly Charge: $9.00

Effective: MAY 2 6 1974

Issued by: Municipal Light & Power Department
City of Anchorage

By: Carolyn A. Dawson Title: Utility Manager

ARUC
PSC No. 121 Original Sheet No. 108

Cancelling

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State of Alaska
Public Utilities Commission

SCHEDULE 21

GENERAL SERVICE, SMALL

Applicable to:

Any class of service which does not qualify for a residential rate schedule and where the demand does not exceed 10 kilowatts.

Character of Service:

Single or three phase 60 hertz alternating current at 120/240, 240/120, 208Y/120, or 480Y/277 volts as available.

Monthly Rate:

First 20 Kwh at 10.0¢ per Kwh

Next 130 Kwh at 3/2¢ per Kwh

Next 150 Kwh at 2.8¢ per Kwh

Over 300 Kwh at 2.4¢ per Kwh

Minimum Monthly Charge: $2.00

Effective: MAY 2 6 1974

Issued by: Municipal Light & Power Department
City of Anchorage

By: Carol G. Oliver Title: Utility Manager

APUC
CPSCI No. 121 Original Sheet No. 109

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State of Alaska
Public Utilities Commission

SCHEDULE 22

GENERAL SERVICE, LARGE

Applicable to:

Any class of service with a demand consistently exceeding 300 kilowatts or where electricity is used as the main source of space heating.

Character of Service:

Three phase 60 hertz alternating current at the following voltages where available:

Secondary: 208Y/120 or 480Y/277 volts

Primary: 4160Y/2400 or 1247/7200 volts

Monthly Rate:

Demand:

First 250 kW at $1.00 per Kw

Over 250 KW at $0.80 per Kw

Energy:

First 20 Kwh per Kw of billing demand at 2.0¢ per Kwh

Next 50 Kwh per Kw of billing demand at 1.5¢ per Kwh

Next 80 Kwh per Kw of billing demand at 1.25¢ per Kwh

Next 100 Kwh per Kw of billing demand at 1.00¢ per Kwh

Over 250 Kwh per Kw of billing demand at 0.8¢ per Kwh

Minimum Monthly Charge: $50.00

Effective: MAY 2 6 1974

Issued by: Municipal Light & Power Department
City of Anchorage

By: Carolf G. Olson Title: Utility Manager

APUC
PSC No. 121 Original Sheet No. 111

Cancelling

Sheet No.

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APR 26 1974

State of Alaska
Public Utilities Commission

SCHEDULE 23

GENERAL SERVICE, INTERMEDIATE

Applicable to:

Any class of service with a demand consistently between 10 kilowatts and 300 kilowatts.

Character of Service:

Single or three phase 60 hertz alternating current at the following voltages where available:

Secondary: 120/240, 240/120, 208Y/120 or 480Y/277 volts

Primary: 4160Y/2400 or 12470Y/7200 volts

Monthly Rate:

Demand:

First 10 Kw at $2.00 per Kw

Next 40 Kw at $1.75 per Kw

OVer 50 Kw at $1.50 per Kw

Energy:

First 10 Kwh per Kw of demand at no charge

Next 90 Kwh per Kw of demand at 2.0¢ per Kwh

Next 200 Kwh per Kw of demand at 1.5¢ per Kwh

Next 200 Kwh per Kw of demand at 1.25¢ per Kwh

Over 500 Kwh per Kw of demand at 1.0¢ per Kwh

Minimum Monthly Charge: $4.00

Effective: MAY 2 6 1974

Issued by: Municipal Light & Power Department
City of Anchorage

By: Carroll G. Shiver Title: Utility Manager

APUC
Tariff No. 121 Original Sheet No. 114

Cancelling

Sheet No.

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APR 26 1974

State of Alaska
Public Utilities Commission

SCHEDULE 32

OFF PEAK GENERAL SERVICE

Applicable to:

Service between the hours of 11:00 p.m. and 7:00 a.m. only.

Character of Service:

Single or three-phase 60 hertz alternating current at 120/240, 240/120, 208Y/120, or 480Y/277 volts as available.

Monthly Rate:

All Kwh at 1.4¢ per Kwh

Minimum Monthly Charge: $5.00

Conditions:

1. The customer shall provide a magnetic switch which may be operated by a time clock or other switching device to disconnect the service between the hours of 7:00 a.m. and 11:00 p.m.
2. Service under this schedule is not available to new customers after December 31, 1971.

Effective: MAY 20 1974

Issued by: Municipal Light & Power Department
City of Anchorage

By: Carroll A. Elvers Title: Utility Manager

IV. UTILITIES

Community-owned utilities not only provide the important infrastructure of a city at costs well below those of the private market, but also could serve as the point of entry for broad public ownership of productive enterprise. Certain of the utilities, such as water, sewer and garbage collection, are already in widespread public ownership. Several thousand U.S. cities also own their electric power distribution systems. Many also produce their own electricity as well. Municipally-owned telephone and coal gas systems were once common. A handful of cities now own and operate cable television systems. For the most part, costs to the residents for these services are lower than equivalent private utility rates, and the cities earn substantial revenues above in lieu tax payments.

The success of power production could be a stepping stone to other community-owned productive enterprise. The Tennessee Valley Authority originally intended to maintain public ownership of the nitrate and aluminum plants it created and supplied with power near Muscle Shoals, Alabama. Those proposals were gutted by private industry, but the potential still exists in local communities.

The political history of publicly-owned utilities is as important as present economic considerations. Small groups

of citizens have fought for public ownership in this area for nearly a century, battling the Insull Power Trust, the Bell system, corrupt regulatory agencies and bought judges. The people lost a lot of those battles, but they also won a few. The surviving systems across the country are living symbols of the successes and benefits of community ownership. They may not always be perfect symbols, but they are irrefutable proof that community ownership works.

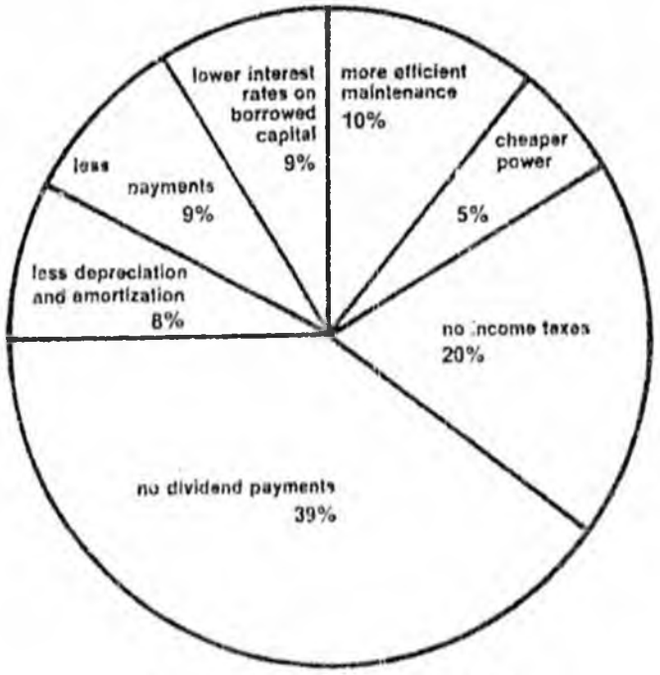
A. PUBLIC POWER

Local publicly-owned electric utilities exist in every state but Montana and Hawaii. The more than 2,000 systems include 1,893 municipally-owned electric utilities, and 109 state, county, or public utility district facilities. In addition, 930 electric cooperatives serve large sections of rural America. Together, public and cooperative electric systems reach 22 percent of the population, or nearly 50 million people.

The economics of public vs. private power are straightforward. Federal Power Commission figures for public and private utilities in 1971 show lower costs per kilowatt-hour (kwh) in virtually every aspect of the public systems' operation. The savings are even more remarkable considering the typically smaller scale at which publicly-owned utilities operate (one-twentieth the size on the average).

Exclusive of retained earnings, local publicly-owned

utilities show an average of 30 percent lower costs per kwh delivered than private utilities (see Chart). Public systems spend less on advertising, less for public relations, less for lobbying, less for local political donations, less for accounting and collecting, less for executive salaries, less for internal bureaucracy.



WHERE THE SAVINGS ARE FROM

This efficiency applies to electric power generation as well. The 1971 FPC statistics report that municipal power systems have 10 percent less net electric plant per customer than the investor-owned utilities, but deliver 12.2 percent more kilowatt-hours per customer. Delivering more electricity per customer from less plant is a very good indication of efficient operation.

The second major benefit of public power is local control. Management of community-owned utilities is directly responsible

to local residents, not to absentee owners. Basic decisions, such as plant location, rate of expansion, placement of power lines, type of power generation, and electricity rates can be made in public forums. Community-owned systems have no built-in reason for "padding" the rate base, or for setting rates at other than a level consistent with costs and local policies.

The publicly-owned power systems should be expanded into geothermal, solar, methane, wind, and other energy sources. The city of Santa Clara already has a pilot solar energy program. Solar heating units in this area are now nearly competitive in price to natural gas service. In a very short time, community solar utilities could well compete with natural gas service, especially if the price of natural gas is deregulated.

The Berkeley struggle to own its electrical distribution system goes back about ten years. In the mid-sixties, advocates of public power, supported by the recommendation of the then city manager, attempted to commission a feasibility study of public ownership. It was not until 1971, with the issue coming up each year, that the council agreed to commission the study. A relatively conservative engineering firm was chosen, approved by both Pacific Gas and Electric Company and the by then desperate public power advocates.

The feasibility study showed a clear pattern of future profits for the city of Berkeley, even though the projections were based on low utility rates (which have risen ten times

faster than projected), and high costs of operation and acquisition of the system. A public power measure was put on the ballot during the 1973 municipal election. PG&E and corporate friends spent over $100,000 to defeat it, and also contributed heavily to the slate of corporate liberal candidates for city council which opposed the measure. The ordinance was defeated by a 42 percent to 58 percent vote.

The technical nature of the report enabled opponents of the measure to confuse much of the electorate during the campaign. The same feasibility study was used to "prove" that public power would bankrupt the city and force cutbacks in social programs serving the minority communities. PG&E flyers also emphasized the supposed inability of the city to run an electric distribution system, a claim that ignores the more than 2,000 municipal, district, and cooperatively-owned utilities in the country.

The Committee for Public Power again placed the initiative on the ballot in 1974, this time in the wake of election reform and huge PG&E rate increases. The committee was still vastly outspent, but it won 47.5 percent of the vote -- a significant increase. For now the issue is dormant, but a regional group called Electricity and Gas for People (E&GP -- turn PG&E around) has been continually exposing the profit-hungry activities of the utility. These activities will improve the chances for public power in Berkeley.

B. CABLE TELEVISION

Community-owned cable television not only can provide extraordinary public services and ultimately contribute generously to the general fund, but also holds the potential for a wide range of city functions. Use of CATV channels by the city government, school system, public health, public works, fire and police departments could easily provide sufficient benefits to warrant any internal subsidies necessary for community equipment pools and programming.

There are presently 14 community-owned cable television systems in the country, the largest in San Bruno, California, on the San Francisco peninsula. The existing systems are generally in small towns, but generate substantial income for local government.

Despite the potentially high profitability of CATV operations over the life of a system, initial capitalization and apprehension about the technology continue to persuade many cities to grant private franchises rather than undertake the enterprise themselves.

Larger cities have also been reluctant to undertake operation of the system because private cable companies in the urban areas have often lost money. Signal reception in the cities tends to be good, with a large number of broadcast stations to choose from. Urban cable companies realize they must offer new services to attract subscribers, but many simply have not been able to raise the capital to develop two-way communications or other innovative uses of the cable.

Berkeley has been squabbling with its CATV franchise since the day the system began operation in 1971. Bay Cablevision is currently in violation of performance, public service, and cable undergrounding requirements, and has not paid the minimum $40,000 franchise fee to the city for the past two years. For its part, the city refuses to grant subscriber rate increases or official suspension of franchise requirements until the system makes its payments to the general fund. The two parties have been at a standoff for more than a year.

The city could easily sue Bay Cablevision for breach of contract, but the present council majority is not committed to public ownership, and it fears angering the remaining subscribers by throwing the system out of town.

A citizen's CATV Commission was established in 1974 to review the existing contract and make recommendations to the council. There is now considerable support on the commission for eventual community ownership, but no chance of securing the necessary funds from the council majority for a formal feasibility study. Until a detailed financial study of public ownership can be made, city council and commission alike are willing to let Bay Cablevision die a natural death.

Financing a community-owned system will normally be available through borrowing with city revenue bonds, or directly out of city long-term savings. Minority communities may in addition be eligible for federal funds, such as a MESBIC minority enterprise loan.

C. TELEPHONE SYSTEMS

The 1,500 small private and rural cooperative telephone companies in the U.S. offer the best evidence of a continuing financial rationale for community ownership. Operating in a market dominated by AT&T, these small systems generally maintain good service, solid growth, and often substantial return for investors or surpluses for user-owners.

The U.S. once had a great number of municipal telephone systems. Today only nine systems remain -- four in Alaska, one in Puerto Rico, and four rural systems in the Midwest. But this does not mean publicly-owned systems are not feasible. Among the Alaska systems are Fairbanks and Anchorage, well-run municipal urban telephone operations. The Puerto Rican system serves the entire island, with nearly 350,000 telephones in San Juan alone. Municipal telephone systems are still prevalent in the western provinces of Canada.

With the exception of urban nightmares like New York City, wiring a community with switching equipment and routing calls beyond local borders is a relatively simple matter. There is no compelling reason to duplicate AT&T's corporate structure, or its employment, service, and financial practices on the local level.

Local systems, public or private, have the option of purchasing low-cost equipment from the Asian markets at a considerable savings from AT&T-administered Western Electric prices. Community systems might also subscribe to alternative

long-distance relay systems now emerging from the specialized carrier industry.

The possible acquisition of the local telephone system in Berkeley has been suggested in all past Coalition platforms. However, no serious efforts have been made to commission a feasibility study or catalyze public support.

There have been relatively few condemnations of public utility facilities in the U.S., and none in the telephone industry. But the California State Constitution, and those of several other states, includes "communications" as a legitimate municipal responsibility. Condemnation proceedings would approximate those used against private power companies, involving either the State Public Utilities Commission or the courts.

D. COMBINED COMMUNICATION SERVICES

The services currently being offered by competing firms in the telecommunications field are the most diverse ever. Whole urban systems could be built with low-cost Asian equipment, customized interconnection, specialized carrier service via microwave and coaxial cables, and complementary CATV networking. An aggressive, farsighted community could finance such a total communications resource through tax-exempt bonds, and own it for posterity. Such systems would not only produce local jobs and retain community revenue, but also would broaden the scope and definition of the terms

"utility" and "public service."

On a more immediate level, cities can own and operate radio, broadcast television and newspaper operations. For example, New York City currently operates a radio station, WNYC. These have been discussed but not formally proposed as part of the Coalition program in Berkeley.

September 1973

ALASKA LEGAL SERVICES AND THE ALASKA PUBLIC UTILITIES AND TRANSPORTATION COMMISSIONS

The philosophy behind the creation of regulatory commissions in the United States was generally the protection of the public interest while allowing a reasonable financial return to regulated moncpolies. The "reasonable" rate of return has occasioned voluminous case law--mainly because regulated monopolies seldom, if ever, face competition, that bastion of free enterprise.

The Alaska Public Utilities Commission

The Alaska Public Utilities Commission(APUC), ostensibly created to regulate utilities in the public interest, has since its creation demonstrated more of a philosophy of casual perusal of the operations of the Alaska public utilities. Certain members of the APUC, and staff members, have publicly expressed displeasure at even the remotest involvement by the public in utility proceedings.

There has never been an organized consumer group, or a rate-payers association, or any consumer entity to make an active presence in APUC proceedings. Alaska Legal Services (ALSC) has gained the reputation, at least with the APUC, as a consumer voice in utility proceedings. The APUC erreoneously assumes that ALSC "speaks" for the consumer; in fact, ALSC lawyers have represented many clients in utility proceedings, but the Program has never held itself out to be a general advocate of the public interest or a monitor of regulatory commissions.

ALSC lawyers have indeed represented clients in many different types of utility proceedings. Currently on appeal to the Alaska Supreme Court is a case where an ALSC client challenged discrimi-

gas rates assessed on residential consumers, occasioned by a natural gas company granting an illusorily favorable rate to large volume consumers. The APUC sustained that rate and the ALSC residential client appealed. The gas rate in question was not just a volume discount; it resulted in the residential consumers bearing an unfair share of the costs of service for the entire gas system.

The challenge was initiated in 1970; the APUC hearing process was lengthy, and the Superior Court appeal entailed one full year. Exhaustive briefs were filed by all sides, with eleven (!) full days of oral argument in the Superior Court.

In another case, ALSC's client village of South Naknek formally intervened in the RCA Bush Telephone proceeding, an extensive ongoing matter involving 142 different villages. This was done to get telephone servive installed in South Naknek. ALSC later filed further motions with the APUC and formally requested that a hearing be held in South Naknek re the hardships caused by the lack of phone service there.

The morning following that ALSC motion, the APUC proposed an interim solution. The APUC ordered RCA technicians to set up the engineering, and proposals for interim and final solutions were formally presented by the APUC a week later. The interim solution was approved by ALSC's client village. A telephone is now operative in South Naknek.

Another proceeding involved Tok's local phone company's application to the APUC to delete certain communities adjacent to Tok from its service area. Residents of those communities feared that this move would convert the heretofore local phone rates into

toll rates.

The APUC had scheduled a public hearing in Tok on 4 days' notice on this application; ALSC protested the insufficient notice on behalf of its Dot Lake client, causing the APUC to cancel that hearing and reschedule another one, with three weeks' notice.

ALSC appeared at the rescheduled hearing and formally protested the application for reduction of the Tok service area, arguing that the resulting shift of responsibility to customers in the affected areas would hasten the change of heretofore local rates to toll rates. Heavy snowfall forced the RCA representatives to miss the Tok hearing, so ALSC requested that RCA respond in writing to all the queries in the hearing record that RCA would have had to answer had it been present. ALSC further requested that all customers who would be affected by the reduction in service area be supplied with RCA's response and given a chance to rebut. The APUC so ordered.

RCA's response was characteristically ambiguous, so ALSC filed a brief requesting an APUC Order (1) clarifying the utility's responsibility to customers, (2) a definitive statement on possible future toll rates occasioned by prospective higher switching costs because of a reduced service area, and (3) a finding on the inadequate notice of the application that was given to the phone subscribers.

The APUC later sustained the phone company's application, but assured all the subscribers that the decision would not result in higher phone rates.

The issue of "adequate notice" to Alaska rate payers had been propounded to the APUC by ALSC in another proceeding. The APUC had informed the public that it would soon promulgate its first official rules of practice and procedure, so ALSC submitted

numerous proposals and recommendations on behalf of its clients, and proposed numerous amendments to the APUC's own proposed new rules.

A hearing on the new rules was held on November 15, 1972. The daylong session was dominated by heated discussions on ALSC's proposals re in forma pauperis (the APUC had provided for none); bilingual notices and interpreters (the APUC had provided for none); adequate notice for bush areas (the APUC had provided for none); plus other poverty-related issues such as policy on security deposits and disputed bills, etc. ALSC submitted the only proposals in the public interest.

The APUC adopted almost every ALSC recommendation. The regulations regarding rate increases, etc., were to come later, so the matter of Notice (adequate, bilingual, and otherwise) remained a burning issue.

ALSC actively advised the APUC on the forthcoming regulations, especially on provisions for bilingual notice to customers. The APUC even requested a copy of ALSC's California PUC Rules which ALSC had cited as precedent for several proposals. The APUC had never even seen the California Rules. ALSC has the practice rules of every state and federal regulatory commission.

The second round of the promulgation of new APUC rules came in an all-day hearing on May 30, 1973. ALSC's extensive recommendations for its clients regarding effective notice of rate increases, and security deoposit policy, were prime topics of discussion. On several occasions the APUC called upon ALSC to render an opinion on behalf of consumers, since everyone else present in the hearing represented utilities.

In addition to the natural gas case, ALSC's mushrooming technical expertise in utility matters further emerged in the Glacier Telephone rate case. On November 24, 1972, the APUC gave two weeks' public notice that the Glacier State Telephone Company, serving Kodiak, Seldovia, Nome, North Pole, Nenana, Delta Junction, Homer and Kenai, had applied to increase (dorble) its service and mileage rates.

On December 8th ALSC filed a formal protest on behalf of the Kodiak Area Native Association, on the grounds that (1) the phone company would realize an unreasonable rate of return; (2) the rate increase was not consistent with President Nixon's Economic Stabilization Program; (3) the proposed rates were discriminatory. ALSC requested a formal investigation by the APUC into the phone company's existing rate structure.

ALSC had made a similar request to the APUC in 1970 regarding the Anchorage Natural Gas Company which was denied; this is a major part of the appeal now before the Supreme Court.

In the Glacier Telephone case, however, the APUC suspended Clacier's rate application on December 12, 1972. The APUC stated that numerous protests had been received, so it felt it necessary to examine (1) whether the phone company would realize an unreasonable rate of return; (2) whether the rate increase was consistent with President Nixon's Economic Stabilization Program; and (3) whether the proposed rates were discriminatory. The APUC ordered a formal rate investigation into the phone company's existing rate structure.

ALSC challenged the proposed rate increase on behalf of its client native association in the public hearings held on the

Glacier rate application. For the first time in any APUC proceeding, the APUC Staff appeared as a party to the Glacier proceeding and conducted a full rate study into the phone company's existing rates as well as the proposed ones. In fact, the APUC Staff vigorously opposed the Glacier State application, and utilized its technical expertise to pick apart Glacier's "boilerplate" application. Since the APUC Staff adequately covered the technical apsects of the Glacier rate case, ALSC focused its protest on inadequacy of service as a basis for denying the higher rates.

It is safe to assume that directly because of ALSC's probing, technical, and competent practice before the APUC, the APUC Staff has finally taken a position in a rate case that it should have been taking ever since the creation of the APUC. One would be hard-pressed to think of another reason, since it has been ALSC alone which has represented consumer interests before the APUC. The action by the APUC Staff in the Glacier rate case is one of the most beneficial results of ALSC's practice before the APUC. Hopefully the APUC Staff will carry on.

Ever since ALSC has increased its participation in technical public utilities matters, ALSC recommendations on rules of practice and procedure have been adopted by the APUC; the APUC Staff has taken a position on behalf of Alaska consumers, although the APUC and/or its Staff would probably never admit it. A telephone was installed in a remote village; a small thing, perhaps, but an event with enormous impact on the adjacent area encompassing thousands of square miles.

ALSC keeps in touch with APUC proceedings by subscribing to the APUC mailing list of all APUC Public Notices, and by constant

scrutiny of regulations and decisions of other state and federal regulatory commissions, and the Courts. It is unfortunate in a sense that ALSC has gained the reputation with the APUC that it "represents" Alaska consumers; that function should be carried out by the Attorney General's Consumer Protection Division, or an organized consumer group, etc. However, the fact remains that ALSC's low-income clients gain direct benefit from ALSC's technical public utilities expertise, regardless of the benefit to other consumers.

The Alaska Transportation Commission

ALSC also subscribes to all Public Notices of the Alaska Transportation Commission (ATC). The ATC regulates all intra-state common carriers in Alaska: airlines, busses, taxis, freight trucks, garbage trucks, tow trucks, etc., etc.

Compared to the ATC, the Alaska Public Utilities Commission is a model of decorum, ethics, and public-spirited cooperation. The ATC has never publicly acknowledged even the remotest interest in the public. Every protested application or proceeding always involves only competing carriers, or disgruntled other businesses affected by proposed changes in rates and/or service.

Ex parte contacts are standard procedure with the ATC; most reputable private attorneys deplore the ex parte ATC practice, but feel they "have to do it". If they don't, they will be rolled over by the opposition who does.

Lately, however, the ATC has taken notice of the public interest, largely because of an ATC proceeding in which the Fort Yukon Native

Association intervened, represented by ALSC.

The Upper Yukon area had only one air taxi and scheduled carrier when another private carrier petitoned the ATC for an air taxi certificate in that area. An earlier application by another carrier had been denied. ALSC's client native association had been granted standing by the ATC to intervene in that earlier proceeding, but the ATC never granted the Fort Yukon hearing that ALSC requested.

In the later proceeding, however, the native association intervened in support of the new carrier's application, hoping to enhance the air transport situation in and around Fort Yukon by competition and increased service. ALSC requested a hearing in Fort Yukon rather than the customary Anchorage hearing, since all the prospective passengers reside in Fort Yukon.

The ATC ordered a Fort Yukon hearing, with language to the effect that the hearing would attempt to include the overall air service investigation promised by the ATC to the native association in the earlier proceeding.

During the Fort Yukon hearing, and before the native association could present its case showing the inadequacy of the present service offered by the existing sole carrier, the applicant and the protestant (the existing carrier) made a deal. They figured out between themselves who they would divide up the territory, and made agreements as to restrictions on service, etc.

However, ALSC reminded both parties that any "deal" would have to be a three-way deal, since the native association was an official party to the proceeding. The native association objected to some of the items in the original two-way "deal", but the other

parties quickly agreed to the changes proposed by the native association, and a stipulation was placed into the hearing record. Part of the stipulation was an urging by all the parties that an informal investigation of all the air service in the whole Upper Yukon region be made forthwith by the ATC.

A significant factor in the settlement of this case was that the protestant carrier had hearings set soon on two applications of its own. The same hearing officer in the Fort Yukon matter would conduct at least one of the hearings, probably both. The protestant carrier was well aware that ALSC could (and would) parade three or four non-stop days of atrocity testimony on the protestant's service before the ATC, so it decided to make the "deal".

The native association had enhanced the three-way deal by subtly informing the applicant and the protestant that if they did not agree to the native associations's changes in the original deal, the native association would be forced to intervene in every single ATC proceeding involving carriers in the Upper Yukon region in order to put the case for the people before the ATC. The parties were on notice that in the event the application was granted but the air service investigation was ignored, the native association would reopen the whole proceeding.

The Fort Yukon case, including both proceedings, was the first ATC case that ALSC actively participated in. ALSC clients are constantly informing ALSC lawyers about problems with air service, rates, credit, safety, customer relations, etc., etc.

Low-income clients and the general public would certainly benefit from the ATC assuming a more public-interest oriented approach to transport regulation. For example, during the winter of 1972-73, an international bus line operating between Whitehorse

and Fairbanks wrote a letter to the ATC requesting authority to suspend its winter operations until the summer when the line would again be profitable. The rationale was that the carrier was losing money in the winter.

The ATC summarily granted the bus line's request, even though it had no jurisdiction to do so, and without even the slightest notice of the bus line's request or the ATC decision to the public.

The only notice to the public along the bus route was the fact that one day the bus service mysteriously stopped. Queries to the bus company received the typical response that the bus company had been granted the proper authority to suspend its winter service.

Somebody informed the Interstate Commerce Commission, however, and within a couple of days the ATC was eating its own words and the busses were running. The ATC was forced to issue another formal "Order" rescinding the first formal order, and to admit that it lacked the jurisdiction to suspend service of an international bus line. The ICC didn't fool around; the busses went back on schedule, regardless of the lack of winter profits.

The action by the ATC in that bus matter is merely typical of the flavor of ATC proceedings today. If any area of Alaska administrative law demands reform and scrutiny by the public, it is the ATC. Similar to ALSC's actions with the APUC, increased involvement with the ATC by ALSC on behalf of its clients can only result in an improvement of that so-called "regulatory" commission.

Public Utilities and Transportation are two areas of administrative law sufficiently limited so technical expertise can be quickly developed by legal services lawyers. The impact

of the decisions made by these commissions is trmendous, both on the low-income and general public.

ALSC's involvement with the APUC has already produced tangible results, with more definitely forth coming. The ATC has barely been jostled, but increased participation by ALSC will virtually assure a permanent reserved seat for the public interest in air, ground, and water transportation proceedings in the near future. That result will be a great benefit to everybody, in addition to low-income clients.

Continued (or increased) specialization within these two regulatory commissions can easily be done by one or more legal services lawyers allocating a significant portion of their time to cases in this area. A considerable amount of time must be spent on utility matters, including preparation, research, and technical education. The technical apsect is very important, since many APUC and ATC cases involve tortured questions of economics, demand, revenue, returns, and a myriad of terms and concepts from the lexicon of utility economics.

Because of the present state of [redacted] flux of these two commissions, now is the time to act. The Attorney General's Consumer Protection office will hopefully assume someday the role in the regulatory proceedings that has been thrust upon ALSC. It is the duty of that office to do so.

In the interim, however, as long as it may be required, ALSC's participation in these regulatory proceedings on behalf of its clients has the force and effect of massive class actions. The relief granted for one client is granted across the board to everyone within that client's class of service or rates. The Public Utilities Commission realized this long ago; witness their inpression that ALSC is the Alaska "voice" of the public interest.

END

State Needs a Public Energy Corporation

ARCO Gas Deal Shows Lack of Comprehensive Policy for California

BY DEREK SHEARER

This is the day that the Assembly's energy committee begins hearings on the Atlantic Richfield/Southern California Gas exploration arrangement—one of the most controversial decisions in the 64-year history of the state's Public Utilities Commission.

PUC commissioners Leonard Ross and Robert Batinovich, among others, will be called to explain the energy deal—which Batinovich has labeled "blackmail" but which he voted for, explaining he had no choice. "Dealing with ARCO," he says, "is like dealing with a foreign power."

Under the arrangement, consumers will pay an added charge on their utility bills, averaging $2.50 a month over seven years. The $600 million thus collected will pay the interest and taxes on borrowings from commercial banks for ARCO's "development costs" at the Prudhoe Bay gas fields in Alaska. In return, ARCO will offer Southern California Gas the right to negotiate purchase of natural gas supplies, which might otherwise become precariously low.

In due course, the PUC is expected to approve an equally complex deal to help cover Exxon's costs in developing Alaska gas—a supply source slated for sale to Pacific Gas and Electric in Northern California.

In effect, the public will be providing capital to private oil companies—but with far fewer gains than customarily accrue to the venture capitalist. Batinovich blames the pro-industry policies of the Federal Power Commission for forcing such deals on California.

The deal, in fact, provides no guarantee—only a strong likelihood—that Alaska gas will actually reach Southern California. It remains theoretically possible for ARCO to sell the gas elsewhere, in which case ARCO would have to return the $600 million plus 7% interest.

The PUC's decision to approve the plan is one more example—the offshore oil controversy is another—of the state's failure to adopt a comprehensive energy policy. Instead, public officials move from crisis to crisis, choosing lesser evils on a stopgap basis rather than formulating long-range policy for the ultimate benefit of all Californians.

The PUC, of course, is established by statute as a regulatory body, so it cannot be held primarily at fault for failing to produce long-term policy. Further complicating its function is the governor's failure to give it solid guidance. Under the Warren-Alquist bill passed last year, the new State Energy Commission supposedly plays the key role in forging overall energy policy for California. Experience so far indicates that the commission is unlikely to fulfill this task, for it has been so mired in controversy and internal bickering that paralysis has set in.

Gov. Brown himself lacks a definite energy philosophy—a deficiency reflected in the mixed quality of his appointments to the new commission. Former Assembly Speaker Bob Moretti was obviously named for political reasons—he has no special background in the energy field—and apparently has outfoxed the other commissioners, not least of all Chairman Richard Maullin. By placing his own people in key staff positions, Moretti appears to have gained dominance for his pro-growth and pro-nuclear views.

Another commissioner, Dr. Ronald Doctor, is so disturbed by the workings of the commission—particularly the secrecy of its meetings—that he and Moretti are in a state of open warfare. In his public comments, Doctor makes no bones about the commission's inability to promulgate energy policy in the public interest. No wonder the Public Utilities Commission is obliged to pick up the pieces as best it can, for it has been cast by default in a policymaking role.

Derek Shearer was formerly special consultant to the state director of employment development. A specialist in economic affairs, he is now codirector of the California Public Policy Center, public-interest research group based in West Los Angeles.

If the energy commission is incapable of charting an energy course—let along implementing it—policy will continue to be made by the energy companies working through the PUC, as happened in the ARCO deal.

What is needed to avoid this pitfall is the institutional means for setting policy in the public interest and then to carry it out. Such a cohesive policy has been proposed for California by Dr. John Wilson of the Cornell Energy Study Group. In a memo to the Legislature, he set these basic targets:

—Conserving available energy resources.

—Increasing energy supplied in ways consistent with economic development and environmental protection.

—Restraining unwarranted price hikes rooted in monopolistic excesses or inefficiency.

Given the present void in energy planning, the Legislature itself should move in. To begin with, it should declare that providing adequate supplies of electricity, refined petroleum, natural gas, coal and other energy sources is essential for the health, safety and well-being of the people of California. But it should go further than these generalities and obtain governmental access to data on resources, costs and other aspects of energy production, distribution and sales. Even more important, the Legislature should find some way to assure that the supply of energy is controlled by a public body—for everybody's benefit.

The staff of the Assembly's Energy Committee believes that one way to implement a comprehensive policy is by establishing a new, publicly accountable state mechanism—either a state energy agency or an energy corporation.

Earlier this year, Committee Chairman Charles Warren (D-Los Angeles) introduced AB 632, which would set up a California Public Oil and Gas Corp. Models envisioned by Warren are public energy companies already operating in Canada to assure adequate energy supplies at reasonable prices.

Under Warren's bill, a state body of this type would engage in such functions as joint partnerships with private companies, independent studies of offshore oil and reserves on public lands, brokering of oil and gas for public utilities and research on alternative energy sources from solar to geothermal. Thus, a public corporation could negotiate directly for gas with the state of Alaska or with Canada.

"A public corporation would save us money and prevent more ARCO-type deals," says PUC Commissioner Batinovich. Like his fellow commissioners, he has endorsed Warren's bill, provided that such a corporation is exempted from civil service and operated on a business-like basis.

How likely is passage? Opposition, to say the least, is formidable. Part of it comes from the energy companies, whose power to make favorable deals would be diminished. Also opposed are free-enterprise traditionalists who lament any further intrusion by government into the private sector. And then there are all those—perhaps including the governor himself—who eye with deep suspicion any growth of the bureaucracy, with the additional red tape they fear that would entail.

But, on balance, creating a public energy corporation is an idea whose time has come. To choose against it would be to choose for a continuation of the present slapdash system that militates against the consuming public.

Energy markets today are so dominated by a handful of multinational corporations that reliance on the "free market" concept is illusory. Since energy policy on the federal level is oriented toward the interests of industry, the Legislature and the governor of this state should adopt the principle that energy resources be publicly controlled.

That is the only way to prevent California's whole energy future from being determined in the board rooms of Exxon and ARCO.

Report on Alaskan Utilities

Alaskan Public Interest Research

December, 1976 James Love

INTRODUCTION

This paper is an attempt to analyze the effectiveness of utility regulation throughout Alaska and to give other background in terms of types of utilities operating, whether they are publicly or privately owned; to give a background of the members of the Public Utilities Commission; to bring out some of the major issues that will be facing our state within the next few years; and attempt in this brief, informal paper to impart a basic understanding of how most Alaskans relate to utilities in the State of Alaska.

PROFILES OF ALASKAN UTILITIES

In Alaska there are approximately 190 utilities operating which hold certificates of public convenience from the Public Utilities Commission. Of these, 109 are privately owned, 14 are REA cooperatives and the remaining 67 are run by municipalities. Of these 190 utilities, 121 are regulated as to rates and services by the PUC and the remainder are either regulated by a local government or not regulated at all. Alaskan utility law is that all municipal utilities or private utilities which gross less than $25,000 a year may be exempted from regulation by the Public Utilities Commission. Municipal utilities can elect to come under the jurisdiction of the PUC which is the case in Anchorage as well as some other cities in Alaska. These 190 utilities are broken down into 47 electrical, 39 telecommunications, 50 water, 26 sewer, 5 gas, 1 steam and 22 garbage and refuse utilities.

In the months of January to November, 1975, approximately 95 rate cases were filed with the PUC. Of these, 39 were either permanent or interim rate increases and 56 were fuel rate cost adjustments which were simply the pass-through of increased fuel costs. These rate increases are broken down into seven rate increases filed for garbage and refuse companies; 15 either interim or permanent increases and 55 fuel rate cost adjustments filed by electrical companies; two rate cases filed by natural gas companies; one fuel adjustment clause flow-through filed by natural gas companies; seven rate increases filed by cable

television; three by water utilities; five by telephone companies. The amount of increases which were filed for by various utilities ranges from a low of approximately 10% to a high of up to 425% for one water utility. The majority of the increases being filed for ranges between 25% to 60%.

Investigation into these rate cases is conducted by a woefully inadequate PUC staff. At present the Public Utilities Commission employs for purposes of investigating proposed rate increases five individuals who are either tariff or fiscal experts. In addition to these persons, the PUC staff has part-time access to counsel from the Attorney General's Office.

Until recently the activities of the Public Utilities Commission were not taken seriously by Alaskan legislators. The original PUC was called the Public Service Commission, which was established through legislation passed in 1962. At that time the Public Services Commission included the regulation of the transportation as well as the utilities in Alaska. The Public Services Commission did not actually begin functioning until January 1, 1964 (approximately five years after statehood). From 1964 until 1970, the Public Services Commission operated with three part-time commissioners appointed to serve in a semi-voluntary capacity. Transportation was separated from the Public Services Commission into its own regulatory body in 1966. In 1970 the Public Utilities Commission was created by the Legislature and three full-time commissioner positions were then established. From that time until very recently, the member-

ship of the PUC was pro utility and effective regulation of utilities was a joke in Alaska. This changed recently, partially through the addition of two new members to the Public Utilities Commission which swelled its membership to five. In addition, Commissioner James Hendershot, one of the worst of the previous commissioners, was forced to resign last winter when a telegram surfaced revealing communication between Hendershot and the head of RCA Alaska. It was clear from this correspondence that Hendershot was RCA's representative on the PUC.

In 1975, general public dissatisfaction with the Commission led the Legislature to create two new consumer member positions. These members are appointed from the general public at-large. Presently, the two consumer members are Susan Knowles and Carolyn Guess. Susan Knowles, an AkPIRG member whose appointment AkPIRG lobbied for, is bright, idealistic, and a very capable member of the Commission. Carolyn Guess, also an AkPIRG member, is the other consumer member on the Commission. Carolyn was reportedly appointed in sympathy of the fact that her husband, a former Speaker of the House and candidate for the U.S. Senate in 1974 died of a heart attack last winter. Prior to her appointment to the Public Utilities Commission, Carolyn's background with utilities included an appointment to the Alaska Broadcasting Commission, and her late husband was a member of the Board of Directors of Central Alaska Utilities, one of the more dis-

reputable utilities companies operating in Alaska.

The other members of the PUC include a lawyer, a person with a business background and an engineer. The commissioner now serving the lawyer slot has served on the Commission for one year. He is probably the strongest member of the Commission and is performing like a real consumer advocate. The engineer sitting on the PUC is Marvin Weatherly. Mr. Weatherly was formerly appointed by Governor Hammond as the head of the Governor's Office of Telecommunications and was one of the prime negotiators in the Governor's Office between the state and RCA over the establishment of satellite telecommunications for rural Alaska. Weatherly made his name as a tough public advocate who has taken a hard line against RCA on behalf of the state. Mr. Weatherly is considered an unknown factor as far as other utility issues are concerned. The business representative on the PUC, Mr. Gordon Zerbetz, has been on the Commission on and off since its inception.

The Legislature added the consumer members to the PUC specifically to stack the Board's membership more towards the public interest. At this time, we're really not sure how the consumer members are going to differ from the other members in terms of their role on regulatory issues. So far, and I think the way it will probably be in an ongoing way, is that the two consumer members of the Public Utilities Commission sit with the other three members as a five member body and hear testimony and make decisions. The consumer members don't bring evidence before the

Commission or provide direct testimony themselves or in any other way perform a different function than the other three members of the Commission. In effect, the consumer members are hampered as the other commissioners are in that they have to make their decisions based upon the testimony provided them (by utility companies, by their own inadequate staff and by whatever public participation may come forward) in the quasi-judicial setting and they are not in a position to otherwise influence the outcome of rate cases.

The primary benefit to consumers is that the two new members of the Commission perceive themselves as consumer advocates. They feel their responsibility is more towards consumers and accordingly have taken more of an interest in a lot of the issues that concern the consumer, i.e., possible new rate structures which favor residential users, certain types of service complaints. They have taken a larger interest in the consumer side of the public utility regulation and are generally more responsive to arguments which favor consumers. However, in essence, their actual role in hearings is no different than any other member of the Public Utilities Commission.

On conflict of interest statements, Commissioner Guess reported income from one of the larger law firms in Alaska, Ely, Guess & Rudd, a firm which has included two former attorney generals and a former Speaker of the House as partners. Guess's association with this law firm is largely ended since the death

of her husband and her appointment to the PUC. Susan Knowles shows income primarily from a development and engineering firm which employed her and Grizzly Burger, a hamburger restaurant owned by her husband. Her husband, Tony Knowles, is a member of the Anchorage Municipal Assembly. Mr. Weatherly, the engineer member of the Commission, is a stockholder and an incorporator for a broadcasting corporation for Juneau and has worked extensively in the broadcasting field throughout Alaska. Commissioner Zerbetz is probably the wealthiest of the commissioners, owning large amounts of real estate in Ketchikan, stock in numerous corporations doing business in Alaska and holding numerous natural resource leases. Commissioner Edwards, the commissioner serving the lawer slot, reported income for his wife in a number of energy and utility corporations including Union Oil of California, Baltimore Gas and Electric, Exxon, Black Hills Oil Marketeers, Chevron Oil Corporation, American Electrical Power Company, Montana/Dakota Utility Company, Gulf Oil, Texaco Oil and several other corporations which are not directly energy or utility related. Edwards also lists natural resources leases, including an apparent joint ownership with Commission Zerbetz on one natural resource lease which was sold in December, 1974 to another party (the approximate time of Edwards' appointment).

ISSUES IN ALASKAN UTILITIES TODAY

Natural Gas:

In 1959, large natural gas deposits were discovered on the Kenai Peninsula approximately 100 miles from Anchorage, Alaska's largest city. The leaseholders sold their interests to Union Oil of California and Marathon Oil Company who is the group I'll refer to as the owners of the gas deposits. Union/Marathon then entered into an agreement with Honolulu Gas, an Hawaiian based company, to build a pipeline from the Kenai area to Anchorage and a distributi company for natural gas.

Honolulu Gas constructed and operated the gas company and the distribution company and financed it with bonds guaranteed by Union/Marathon. The first gas meter was turned on in Anchorage in 1961, three years previous to the actual functioning of the Public Services Commission. Shortly thereafter, the pipeline company and the distribution company were acquired by Alaska Interstate, a Houston based holding company which owns a number of engineering, energy, agricultural, manufacturing and construction firms and other enterprises in Alaska, the United States and other parts of the world, including Indonesia.

At this time, the gas company (the distribution and the pipeline company hereafter jointly referred to as AGAS) is the second largest private utility in Alaska. (RCA which serves the telephone long-line service is the largest private utility in

Alaska). In 1974, AGAS had annual receipts of approximately 25 million dollars. Since its inception and since it actually began selling gas to Anchorage consumers in 1961 until 1975 AGAS has never undergone a full scale rate investigation by the Public Utilities Commission. Never at any point has there been an attempt made by the PUC to establish what the proper and reasonable rate of return would be for the gas company. Consequently, the public has never known whether or not the company's profits were excessive.

In the gas company's first 8 years of operation, the legislature had given jurisdiction to the PUC for regulating the distribution company but not the pipeline company which was the sole supplier of natural gas for the distribution company. During this time both the distribution company and the pipeline company were owned by the same holding company. Alaska Interstate merely hid the profits of the gas company's operations in the unregulated pipeline company and so the distribution company showed small profits and occasional losses in its annual reports.

This defect was finally dealt with by the Alaskan legislature in 1969 and at that time it was widely assumed that the change in statutes which gave the PUC the authority to regulate the pipeline company would result in a rate investigation initiated by the PUC. However, this did not occur at that time and was not actually initiated until 1975.

During the period of time when the company was allowed to separate their profits for the purpose of regulation Wally Hickel, a major stockholder in Alaska Interstate, was the governor of Alaska. While Hickel was governor and before he was the Secretary of the Interior, the pipeline company negotiated a contract for natural gas sales to the military base located in Anchorage. This contract put 200 coalminers out of work in the Matanuska Valley. (They had previously been supplying coal to the military base.) The gas company put on a big to-do saying the sale of natural gas to the military would result in a cut in residential consumer rates.

The sale to the military was consummated in 1967 but the promised rate decrease never materialized to the extent that was originally promised. Profits for the pipeline company soared, still unregulated.

The individual who negotiated the contract for the military was General Reeves. The year after the contract was negotiated, General Reeves retired from the Army and became the president of the gas pipeline company. Reeves retained his presidency up until this past year. He's now retired and drawing a pension from Alaska Interstate.

In addition to owning the pipeline company and the distribution company, Alaska Interstate owns the engineering firm which built the pipeline; the corporation which leases office and warehouse space to the distribution company; and is currently involved in natural gas exploration in the Cook Inlet area which, if successful, will then sell natural gas to the distribution company.

Natural Gas, Continued

In 1969, a study was commissioned by the PUC to the accounting firm of Ernst & Ernst to probe into whether or not the gas company was realizing excessive profits on its natural gas distributorship in Anchorage. As a result of the study, Ernst & Ernst recommended that the Public Utilities Commission examine the reasonableness of the many costs directed at either the regulated companies or those companies which were not regulated and also to establish whether or not the costs and expenses that were borne by Anchorage consumers could have been borne or accounted to other areas of Alaska Interstate activities.

Up to this point, an investigation into the reasonableness of these rates and relationships has never been conducted by the PUC. There is a current rate case that was initiated this year for the natural gas rates in Anchorage. The reason that the case was initiated was that the gas company renegotiated its wellhead contract with Union/Marathon. The renegotiation resulted in an approximate doubling of the wellhead price of natural gas. At that time, the natural gas distribution company had a fuel adjustment flowthrough in their tariff and they attempted to flowthrough the doubling of the wellhead price to Anchorage consumers.

Alaskans were fortunate at that time that there had recently been an appointment of a consumer oriented member to the PUC, Commissioner Dick Edwards. The gas company's flowthrough attempt was suspended by Edwards and Zerbetz, with

Hendershot dissenting. An investigation was initiated into whether or not the flowthrough provision should be dropped from the tariff, whether or not the gas company should file for a permanent rate increase and go through rate hearings.

The gas company threatened to interrupt service to its customers and for the first time PUC got tough and initiated investigation into whether or not they should lift the gas company's certificate of convenience. The gas company was brought into line by this action and the current status is that an interim rate hike has been given the utility which was about 60% of what they originally requested. A permanent rate case has been filed by the utility and is under review.

One recommendation that AkPIRG has made during the gas company's rate cases is that the Public Utilities Commission recommend to the legislature that they(PUC) be given the authority to regulate the price of natural gas at the well-head. There is a good deal of sympathy for this on the PUC and among certain legislators but we're sure there will be a good deal of political opposition as well. The reason for this opposition can be traced by reviewing who the actual leaseholders of the Kenai gas are and how they originally obtained their gas rights.

The story goes back to 1957 and is a miniature Teapot Dome Scandal. In 1957, Fred Seton, then Secretary of the Interior, and a collection of Anchorage businessmen flew down to the Kenai peninsula on a private outing. Shortly after that trip,

every one of the businessmen who had been on the plane filed on oil and gas leases in the Kenai - Swanson River areas. At that time, no one in Alaska had ever heard of oil and gas leases.

Two of these leaseholders are Bob Atwood, the publisher of Alaska's largest newspaper, the powerful Anchorage Times, and his brother-in-law Elmer Rasmusson, the president of the state's largest bank. Their contracts and the others with Union/Marathon reportedly include a percentage of the company's sale price for the gas so any rollback in the wellhead price of natural gas will mean lost bucks and will meet with considerable resistance.

At the recent interim rate hearings the Gas Company asked the PUC to allow them a special Alaska Factor of 2% which would be added to any percentage of the rate of return that their own experts could justify as reasonable. In theory, the Alaska Factor is to make the Alaskan utilities on a par with utilities in other states on the capital market since Alaska is such a distant unknown area that investors are generally ignorant and reluctant to risk making investments up here. We think this argument is about as absurd as a Colorado or Nebraska Factor. What makes this argument even more ridiculous is that the Alaska Gas Company has been using the same financial institutions for a majority of their financing for over a decade. Furthermore, the gas company's own experts admitted under cross examination by

AkPIRG that contracted and known uncommitted natural gas reserves which are available to the utility are the single most important consideration in determining risk for a gas company. The Alaska utility is far superior to almost any utility in the country as far as the reserves that are available.

The gas company brought in expensive consultants from Texas and Washington, D.C., who hammered at this and other po The PUC commissioners, against their biases, gave an Alaskan Factor on its rate of return. This is one area we hope to knock down in the permanent rate increase hearings by providing economists and experts who can give knowledgeable testimony to discredit this practice.

Telecommunications:

RCA Alaska is the state's telephone long lines carrier and the state's largest private utility. RCA Alaska grossed over 41 million dollars in 1974. As the state's long lines carrier, RCA Alaska Communications, Inc. grossed over three times more than the next largest telephone utility which is the Anchorage Municipal Telephone Company.

RCA Alaska is reportedly one of the national RCA's most profitable subsidiaries. The company has a reputation for poor service and there is a great deal of suspicion that the rates are unreasonably high. Jon Rowe and I spoke with Commissioner Dick Edwards who felt that one of the next major utility cases

in Alaska would be a rate case initiated by the public or by the PUC to get a reduction in long lines telephone rates. This is due to the fact that the technology for RCA has been improved to the extent that the cost has been greatly reduced.

The general public dissatisfaction with RCA has caused the state to be somewhat apprehensive about jumping into bed with RCA insofar as developing satellite communications for the majority of rural Alaska. What's at stake is the launching of a satellite to serve Alaska and the building of earth stations throughout the state. The state wants to own as many of the facilities as possible and simply lease them to whatever private utility operates them so that it can be in a better bargaining position.

RCA is doing everything it can to see that it launches the satellite and owns the earth stations. Recently, AT&T intervened in the proceedings before the FCC and indicated a desire to compete with RCA's proposal. This controversy will be ultimately resolved by the Alaska Legislature and the Federal Communications Commission.

Interestingly enough, Ma Bell at this time has no foothold in any of the Alaska Telephone companies. The largest Outside telephone company doing business in Alaska is Continental. The two largest telephone companies, next to RCA, are municipal telephone utilities in Fairbanks and Anchorage.

Hydroelectric Power:

Hydroelectric power, primarily for Southeast Alaska, has been pushed rather hard by the Southeast Conference. There are some who question the economic wisdom of committing the state to large hydroelectrical projects in Southeast Alaska. As a result, the Legislature authorized a $200,000 interim study into the economics of hydroelectric power in the southeast primarily comparing the cost to that of conventional diesel power.

Although results of this study are not yet known, there is considerable speculation that the study will discredit the cost advantages of hydroelectric projects. The lobbyist for the Southeast Conference, Bill Boardman, is a former Speaker of the House of Representatives who is currently married to Senator Genie Chance, Chairwoman of the Legislative Council. The Legislative Council is the interim body which administers legislative studies, etc.

In a move to trim the Legislature's somewhat wasteful budget, Senator Chance recently attempted to cut the power study appropriation without informing other Council members. Although unsuccessful, it at least provides an indication that the hydroelectric lobby is opposed to the completion of this study.

Electrical Utilities:

As mentioned previously, the largest amount of rate cases that have been filed in Alaska have been for electric utilities.

This includes five interim rate cases being filed in 1975, 10 permanent rate cases and 55 fuel rate cost adjustments.

In Anchorage, the municipal electrical company has recently filed for a 51% increase. The primary reasons for the increase are whopping big wage settlements, higher interest rates and the effect of the rate hike for natural gas which is the chief source of power for electricity in Anchorage. The 51% rate figure was only filed for by the electrical company in October of this year.

Utility officials actually knew in late 1974 that the electrical company was in bad financial shape. A political decision was made to hold up the filing of any large rate increase for the electrical company until after the September 9th mayoral election. The electric company was run by the City of Anchorage at that time when the two governments (City and Borough) were divided. The election for the unified government of the city and the borough had two main contenders: the borough mayor and the city mayor. The city mayor ran on a platform of fiscal responsibility, having run utilities at low and efficient rates and keeping taxes down.

In 1974, the electrical company was forced to subsidize the tax base beyond what was economically wise. As a result of this and the belated filing of the rate increase, the electric utility jeopardized its bond trading and was forced to defer important capital improvements which must now be

financed in a generally poor market for municipal bonds.

The Anchorage consumer is going to pick up the tab for this decision through poor service and an inflated cost at providing capital improvements and financing them.

Alaskan consumers probably need to take a look at the management practices of other electrical utilities in Alaska. AkPIRG has received complaints about corrupt practices in Chugiak Electric Association, the state's largest REA cooperative. This same utility recently changed its bylaws to eliminate the right of co-op members to make nominations for the Board of Directors from the floor at the annual meeting. In order to be a candidate for the Board of Directors, you have to be nominated by the nominating committee which is appointed by the incumbent Board of Directors. AkPIRG hopes to organize a challenge to this at their next annual meeting.

Water Utilities:

The state's second largest regulated water utility is Central Alaska Utility. CAU has a reputation for poor service and shady financial dealings. Its predecessors, Spenard Utilities, made a good deal of its money by its questionable obtaining of water rights. For example, in the mid-sixties an incredible rip-off of water was pulled off with the aid of the State Housing Authority (ASHA).

The scene of this rip-off was a moderate to low-income subdivision called Nunaka Valley. Nunaka Valley was originally

an FHA financed project which had gone belly up in the mid-fifties. The project was placed in receivership and managed by ASHA for FHA. Nunaka Valley had good water wells which supplied the local homeowners at no cost.

In the mid sixties, Spenard Utilities was attempting to develop a water concession in the general area surrounding the Nunaka Valley subdivision. Spenard Utilities entered into a lease with ASHA for the water wells with an option to purchase. Spenard Utilities then turned around and began selling the water to nearby subdivisions. At the time the lease with the option to purchase was negotiated, Don Mellish, a member of the ASHA board of directors and currently the president of the National Bank of Alaska, the state's largest bank, was the largest stockholder in Spenard Utilities.

When the option to purchase was exercised, a former utility board member was again on the ASHA board of directors.

Upon exercising their contract of purchase, Spenard Utilities began billing the Nunaka Valley residents for their water rights. The outraged citizens hired an attorney and sued the water company and the Housing Authority. The lawsuit was settled out of court with the utility company retaining the water and the residents getting their streets paved. The paving was paid for by the Housing Authority and the local government (Read Taxpayers).

Water Utilities, Continued

It appears from my research that this is only one of several cases when Spenard Utilities obtained water rights through questionable means. The board of directors of the utility company includes several bankers and developers. Currently, the utility manager's wife sits on the Anchorage Rent Review Board. This company was recently granted a 59% increase in water rates.

Another water company operating in Anchorage recently filed for a 425% increase in rates. Bell Utilities is currently attempting to raise its monthly charge for residential units from $10 a month to $46 a month.

Miscellaneous Utility Issues:

At this time it appears that no plans have been made for nuclear power as an energy source in Alaska. It is possible that uranium will be mined and plutonium refined in Alaska. The possibility of this has been brought up in the past, but it has met stiff resistance from Senator Mike Gravel, a well-known national adversary of the nuclear power combine.

Rural areas of the state, particularly small native villages, have been ripped-off for years by the companies providing oil. Oil will be delivered seasonally, maybe once a year in different parts of Alaska, placed in large storage tanks and then sold to local residents on a periodic basis throughout the year. During that year's period of time, the price of oil will rise. This increase in price will be

charged off to the local residents even though the oil that is actually in the storage tanks was purchased at an earlier time at a cheaper rate.

RUCAG:

I have discussed the RUCAG concept with members of the Public Utilities Commission and several Anchorage legislators. The members of the Public Utilities Commission are generally receptive to the idea of the establishment of a RUCAG in Alaska and in fact are very desirous of personal input from the public in rate cases. Legislators, on the other hand, are not quite so receptive.

The main reason for this is that in the 1975 legislative session the legislature expanded the membership of the Public Utilities Commission from three members to five members, the two new members being consumer representatives. From our point of view, that hasn't really solved the problem since the consumer members perform the same function as the other members of the Public Utilities Commission and are not allowed to present direct testimony themselves during rate cases, or assume the role of an adversary, which we feel is so badly needed in rate cases. I doubt, however, that the legislature would approve in 1976 the establishment of a RUCAG. And we have pretty much decided not to push it this year.

For one reason, the two new consumer members of the PUC have yet to establish what their roles are going to be in rate

cases. Until they really get established and we see how they perform and how they define their own role, it's going to be premature in terms of gaining the type of support among legislators we need to get this proposal passed. A bill is being drafted, however, and will be introduced this session for purposes of discussion.

When I have brought up the concept of RUCAG to discuss with various legislators, in almost every single instance they have asked me why we should put so much work into a proposal for utilities if it did not address many of the other problems of consumer advocacy, including regulation of the transportation industry and all of the other various areas of interest up here.

A part of the RUCAG controversy or discussion up here is going to be the thinking through by Alaskan legislators and consumer groups about the best overall design for consumer advocacy in all areas of regulation and policy making.

Under consideration are proposals running the gamet from a Department of Consumer Affairs at a cabinet level to increased duties of the Consumer Protection Agency; the appointment of a People's Council for the purpose of intervening before any type of regulatory board or commission, variations of the RUCAG proposal which would include other types of industry, and hybrids of all of the above.

RUCAG, Continued

We're going to put a big push on during this next legislative session to have either a citizens' board or a legislative interim committee be established to study the various methods of providing ongoing consumer protection and consumer advocacy at a state level.

In the meantime, representation by consumers and by the public before the Public Utilities Commission in rate cases is going to be pretty much left up to the Commission's inadequate staff and the few citizens' organizations which have shown interest in the past (this has been limited to AkPIRG and Alaska Legal Services).

Summary:

AkPIRG is going to continue to appear before the Public Utilities Commission to provide testimony to important rate investigations and important rule-making petitions. Members of the Public Utilities Commission are generally receptive to Alaskan consumers and are soliciting ideas from AkPIRG in a wide range of areas. For example, in a recent hearing on a flow-thru tariff for gas companies, Commissioner Guess asked AkPIRG if they felt that new life line rate structures for gas and electrical companies would be desirous in Alaska. The implication from the Commission members was that if AkPIRG was to provide such a proposal, the Commission would give it serious consideration.

Summary, Continued

Thus, we are in a somewhat different situation than consumer groups in other states as the Alaska Public Utilities Commission, which was in the past an incredibly unresponsive group, has been newly constituted as a commission that is truly dedicated towards preserving the public interest.

The next step is to provide the structure for ongoing, adversary representation by consumers in the specific rule-making and rate hearings.

Alaska State Legislature

LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM

January 16, 1976

SUBJECT: Utility Rates (Work Order #1629)

TO: The Honorable Robert Bradley

FROM: James Owers, Research Analyst
(with Gregg Erickson, Director of Research Services)

The following summarizes some of the issues raised by your request for a study of utility rates.

As an example of present pricing practices, I have used the tariff schedule of the Chugach Electric Association for service in the urban areas of Anchorage prior to their request for a permanent rate increase. The tariff schedule distinguishes four classes of users: general residential service, residential service--large use, commercial light and power, and industrial and commercial large power. As is typical with the practice of most utilities, the rates are designed to favor the bulk use of electric power through what is known as a "declining block rate structure." For example, the first 500 kilowatt hours for a large industrial user cost 2.3 cents per KWH, the next 2,500 KWH cost 1.9 cents per KWH, the next 17,000 KWH cost 1.5 cents per KWH and over 20,000 KWH cost 1.0 cent per KWH.

In addition to these charges, large industrial and commercial users must also pay a "demand charge." In essence, the demand charge is a reflection of the fact that an electric utility must always maintain a certain standby capacity in generators, transformers, and transmission lines to meet the peak demands of a large industrial user. Chugach Electric charges large industrial and commercial consumers $1.50 per kilowatt each month, based on the peak during that month, for the first 50 KW and $1.25 per KW for each additional KW over 50 KW of peak demand.

Thus, the minimum monthly bill for a large user is in this case likely to be a function of his peak demand over some period of time. For this reason, at certain times of the year, a user with widely fluctuating demand for electric power over the year might be faced with a large minimum bill in an off season. For example, a manufacturer who has all his employees take their vacation at the same time and shuts down during that period would have little if any incentive to curtail

power consumption during the period of closure. This could possibly stimulate some waste of electricity. However, this is probably not the reason why many buildings leave lights on during off hours. In the past, structures have occasionally been designed so that the lighting system is itself an integral part of the building's heating system. In such buildings, heat generated by the lights is sometimes necessary to maintain internal temperatures at acceptable levels. Like all electric heat installations, the thermal efficiency of such systems is quite low compared to direct on-site burning of the fuel.

More often, though, the reasons lights are left on are related to a lack of forethought in electrical system design. For example, switches may not be located near exits, or large banks of lights may have to be lit in order to illuminate the office of one "night owl." If sufficient financial incentive exists in the rate structure, efforts will be made to overcome these design induced problems, and in extreme cases it may even make economic sense to rewire a building with this in mind. The amount of electricity saved could be considerable. Nationwide, it is estimated that commercial high rise structures use 50% of the electricity generated. Legislation might also mandate electrical system designs that make it convenient to cut lighting when not required.

As was mentioned above, peak use demand charges may eliminate the incentive for a large consumer to conserve power during the part of the year (or month) when demand is low. Similarly, any consumer faced with a minimum bill is being offered some measure of "free" consumption, in the sense that he will pay for a given amount of power whether he uses it or not.

Bulk consumption discounts and minimum bills are justified by utilities on the grounds that a substantial amount of fixed capacity is necessary to serve any given customer regardless of whether he actually consumes power or not.

If power demand were less variable, the large costs of maintaining generating plant and distribution facilities could be spread over a larger quantity of power, and thus the average cost per kilowatt could be reduced. The device of the demand charge does penalize consumers who draw large quantities of power for very short periods of time, and who thus require the year-round maintenance of substantial facilities, but they do not reflect the fact that peak consumption by a given consumer at a time of day when the demands from other customers are low can be supplied with little or no additional investment. "Time of day pricing" has been suggested as a means of bringing about the desired evening out of electrical loads, and of more accurately reflecting the real costs of providing electrical energy to various consumers. In the past there have been technical problems with respect to metering of electricity which made this type of rate structure difficult to implement, but these have been overcome, and such a system is now operative

in a number of areas, for example, Madison, Wisconsin.* Of course, time of day pricing has been practiced for many years by other utilities, i.e., telephones. Although it would certainly require some further study, there may very well be steps that the legislature could take to encourage this type of rate alignment.

Over all, it is probable that electrical utility rates have lagged behind changes in operating conditions and no longer as accurately reflect costs. The idea behind the declining block rate structure has been that the utility company can recoup all its fixed overhead costs on the first few bloc. . From then on, further use of electricity involves costs which vary directly with the amount of out-put, such as fuel costs. Until recently, fixed costs in the utility business were high compared to variable costs, but as fuel charges have risen, out-put costs have taken up an increasing share. Even though this is true, recent rate increases in Alaska have applied a fixed percentage to all rates rather than address the fundamental fact that the nature of costs have shifted. This means that small users may subsidize a large user. Here again, further study would be necessary, but if you consider it appropriate we could look at possible legislative means of encouraging an appropriate restructuring of electrical utility rates in order to take these new conditions into account. Such changes might be expected to curtail the kinds of wasteful practices as you mention in your work request.

GE/JO:jm

---

* In the case of a Washington, D.C., utility it was discovered that the institution of time of day pricing would make unnecessary the expansion of generating plant that had been advocated by the utility company.

THE LEGISLATURE OF THE STATE OF ALASKA
FISCAL NOTE
Second Session - Ninth Legislature

I. REQUEST

Bill No. HCR 100
Title: Relating to electric and gas utility regulations
Requested by: _____ Date: March 26, 1976
Return Date Requested: _____
Agency: Legislature Program: Legislative Affairs Agency

II. FISCAL DETAIL

Budget Request Unit(s) Affected: Legislative Affairs Agency

A. EXPENDITURES: (Thousands of dollars)

OBJECT		FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100	PERSONAL SERVICES		0				
200	TRAVEL		0				
300	CONTRACTUAL		0				
400	COMMODITIES		0				
500	EQUIPMENT		0				
600	LAND & STRUCTURES		0				
700	GRANTS, CLAIMS, ETC.		0				
	TOTAL		0				

B. FUNDING: (Thousands of dollars)

GENERAL FUND *		0				
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	/	0 / 0	/	/	/	/
MAN MONTHS (P./T.)	/	0 / 0	/	/	/	/

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Fiscal Note assumes utilization of following funds already requested for FY 77

100 Personal Services	$ 9,000
200 Travel*	1,440
400/500 commodities & equipment	500
Total	$10,940

*To be transferred from unallocated contractual service moneys

IV. ATTACHMENTS

Memorandum of March 27, 1976 to Director of Research Services

V. DATE: 3/26/76 PREPARED BY: Legislative Affairs Agency
(B. Sorensen, Research Analyst)

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

H/S 50

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

Terry

MEMORANDUM March 29, 1976

File - For floor action & Senate reference

SUBJECT: Fiscal Note for HCR 100

TO: Terry Berman
(c/o Honorable Bob Bradley)

FROM: Gregg K. Erickson
Director of Research Services

As you requested, we have prepared a fiscal note on this resolution and forward it herewith, along with an explanatory memo.

GKE:jm
Enclosures

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 27, 1976

SUBJECT: Fiscal Note for HCR 100

TO: Gregg Erickson
Director of Research Services

FROM: Barbara Sorensen
Research Analyst

The study will be undertaken by in-house personnel. We would propose the transfer of unallocated contractual services moneys already requested for FY 77 to cover travel and per diem costs.

Task	Object	Cost
	Personnel	
Study Outline	0.5 mm	$ 1,250.00
Literature research, data accumulation; analysis of data collected; preparation of report and suggested legislative changes (based upon one-half time time of research personnel, normal secretarial support.	3.5 mm	$ 7,750.00
Interview of PUC personnel, utilities personnel. Five trips for three days each to Anchorage.	Transportation Per Diem	$ 765.00 $ 675.00
Equipment, commodities		$ 500.00
Total		$10,940.00
Transfer requested		$ 1,440.00

HJR 2

Send letter telling him I don't, at this time, plan on bringing bill out. cc. Tiller file with HJR 2

February 10, 1975

Mr. William B. Rozell
Faulkner, Banfield, Doogan & Holmes
Suite 201, 311 Franklin Street
Juneau, Alaska 99801

Dear Roz:

Just a short note to thank you for copying me with your letter to Representative Helen Beirne regarding HJR 2. Your thoughts regarding the suggested transfer of Southeast Alaska to Yukon Standard Time are certainly well stated and I am taking the liberty of sending your letter to the chairman of the committee which is considering that bill -- Representative Bob Bradley, of the House Commerce Committee. I am, by copy of this letter, asking Chairman Bradley to advise you when hearings are scheduled on this subject so you can make additional testimony if you so desire.

Again, many thanks and please do not hesitate to contact me on any legislative matters.

Sincerely,

Mike Miller

REPRESENTATIVE
MIKE MILLER
ALASKA STATE LEGISLATURE
P.O. Box 1494
Juneau, Alaska 99802
Home Phone 586-3067

HOUSE MAJORITY LEADER
VICE CHAIRMAN, LEGISLATIVE COUNCIL
VICE CHAIRMAN, STATE AFFAIRS COMMITTEE
MEMBER, RULES COMMITTEE

LAW OFFICES OF

FAULKNER, BANFIELD, DOOGAN, GROSS & HOLMES

HERBERT L. FAULKNER (1882-1972)
NORMAN C. BANFIELD
FRANK M. DOOGAN
[illegible]
MICHAEL M. HOLMES
[illegible]
RANDALL J. WEDDLE
WILLIAM B. ROZELL
JAN VAN DORT
LAWRENCE T. FEENEY

SUITE 201, 311 FRANKLIN STREET
JUNEAU, ALASKA 99801

TEL. 586-2210
AREA CODE 907

January 27, 1975

Representative Helen D. Beirne
Pouch V - State Capitol
Juneau, Alaska 99811

Re: HJR 2

Dear Mrs. Beirne:

Your proposed Joint Resolution requesting the Department of Transportation to transfer Southeast Alaska to the Yukon Standard Time Zone has just come to my attention. As I did last year, I strongly oppose any such Resolution.

During the winter we in Southeast Alaska use every available hour of daylight and it is not a matter of great concern whether the time is shifted forward or back one hour. In the summer months, however, a good portion of our daylight occurs during normal sleeping hours. Your proposal would eliminate an hour of daylight between approximately 10:00 and 11:00 P.M. and move it to approximately 3:00 to 4:00 A.M. This deprives everyone of an opportunity for recreation and wastes an hour of our precious summer sunlight.

I expect the reason for your proposal is to accommodate communication with Anchorage. Since I do 95% of my out-of-town business with Anchorage and Fairbanks as opposed to the lower forty-eight I am familiar with the difficulty presented by time zone differences. However, these differences are by no means insurmountable and, for whatever gain there is in ability to communicate with Central Alaska, there is a corresponding increase in the difficulty with communicating with all of the lower forty-eight states. I don't think a real business benefit would accrue from a change in time zones. But even if such benefit would result I don't believe it can be justified. Business benefit would involve a relative few of the population in Southeast Alaska. The entire population of Southeast Alaska lives here through the summer months and would suffer at the loss of daylight and a shortening of their valuable evening hours. Too often persons in business and government confuse their own selfish benefit with the overall good of the community.

COPY

I would welcome the opportunity to testify at any hearings held on this Joint Resolution or any related matters.

Very truly yours,

FAULKNER, BANFIELD, DOOGAN & HOLMES

By William B. Rozell
William B. Rozell

WBR:js

cc: Senator Bill Ray
Representative Mike Miller
Representative Jim Duncan

BOB BRADLEY

state house

CHAIRMAN, COMMERCE COMMITTEE
POUCH V
JUNEAU, ALASKA 99811
465-3824

VICE CHAIRMAN, JUDICIARY
601 N. BRAGAW
ANCHORAGE, ALASKA 99504
272-0275

March 7, 1975

Mr. William Rozell
Faulkner, Banfield, Dooga & Holmes
Suite 201, 311 Franklin Street
Juneau, Alaska 99801

Dear Mr. Rozell,

Representative Miller has sent me a copy of your letter to Representative Beirne. At this time, I have no intention of scheduling a hearing or taking any other action on House Joint Resolution No. 2. I will notify you if I make any change in these plans.

Sincerely,

Bob Bradley

BB/mr

Dear Mr. Rozell,

~~At this time~~
Rep Miller has sent me a copy of your letter to Rep. Byrne. ~~At this time~~ I have no intention of scheduling a hearing or taking any other actions on H.J.R 2. I will notify you if ~~any features change~~ there I make any change in these plans.

Sincerely,

Bob Bradley

February 18, 1975

Mr. Donald E. Barry, Trainmaster
Rail Division
White Pass & Yukon Route
P.O. Box 436
Skagway, Alaska 99840

Dear Don:

Thanks very much for your letter of February 7th relative to Joint Resolution No. 2 regarding change in time zones for Southeast Alaska. I appreciate your taking the time to outline the difficulties presently being experienced due to the difference in time between Whitehorse Yukon Territory and Southeast Alaska. I am taking the liberty of sending copies of your letter to Bob Bradley Chairman of the House Commerce Committee who currently has jurisdiction over this resolution.

Again many thanks and please do not hesitate to write regarding this or any other legislation before the legislature.

Sincerely,

Mike Miller

cc: Representative Bob Bradley

REPRESENTATIVE
MIKE MILLER
ALASKA STATE LEGISLATURE
P.O. Box 1494
Juneau, Alaska 99802
Home Phone 586-3067
Legislative Phone 465-3739

House Majority Leader
Vice Chairman, Legislative Council
Vice Chairman, State Affairs Committee
Member, Rules Committee
Member, Committee on Committees

WHITE PASS & YUKON ROUTE

PACIFIC AND ARCTIC RAILWAY AND NAVIGATION COMPANY
BRITISH COLUMBIA YUKON RAILWAY COMPANY
THE BRITISH YUKON RAILWAY COMPANY
THE BRITISH YUKON NAVIGATION COMPANY, LIMITED

TELEX NO.
45-339

P.O. BOX 435
SKAGWAY, ALASKA 99840

TELEPHONE
983-2250

February 7, 1975

Representative Mike Miller
Alaska House of Representatives
Juneau, Alaska 99801

Dear Mike:

I am writing to you requesting your support for House Joint Resolution No. 2 introduced by Representative Helen Beirne on January 22, 1975.

I am completely in favor of this resolution for all of the reasons mentioned and will attempt to explain how Southeast Alaska being in the present time zone adversely affects our operations.

As you know the White Pass and Yukon Route operates trains, both freight and passenger, between Skagway, Alaska, and Whitehorse, Yukon Territory. Skagway and Whitehorse are on two different times with Whitehorse being one hour behind Skagway. In other words, when it is 5:00 P.M. in Whitehorse, it is 6:00 P.M. in Skagway. Since we operate our train schedules on Skagway time, this causes much confusion for our passengers who come into Whitehorse by various modes of transportation on one time, stay in accommodations on that same time, and then have to catch a train the next morning for Skagway on a different time. This causes some passengers to miss the train in Whitehorse when they become confused on the two different times. Passengers travelling in the other direction, Skagway to Whitehorse, many times miss connections because of the different times.

Since tourism plays such an important part in Alaska's economy, I believe anything that can possibly be done, no matter how small, to make their travels more convenient should be attempted.

In addition to the above, the two different times cause a certain hardship on our train crews operating out of Whitehorse. These crews run trains to Bennett (about half way) and back to Whitehorse each day. They all live in Whitehorse, so in effect, they are living on one time and working on another. Needless to say this can become confusing and frustrating.

Without doing a little research I could not say for sure, but I would imagine that travelers over the Haines Highway encounter similar problems.

Your support of this resolution would be greatly appreciated and if it passes I would respectfully request that you personally urge our delegation in Congress to support this and do everything possible to convince the Secretary of the U. S. Department of Transportation to make the requested change as soon as possible.

Sincerely,

Donald E. Barry

Donald E. Barry
Trainmaster
Rail Division

DEB:jm

One of the main reasons for the overwhelming vote to move the capital from Southeastern Alaska is the 85% of the population in the state lives in Southcentral. Central, Western, Northern, and Northwestern Alaska feel cut of touch with our state government. I personally feel that a big reason for this feeling of being isolated from our state government is that Southeastern is on Pacific Standard Time and is two hours ahead of Anchorage and Fairbanks. This disparity is illustrated graphically as Table I and the end result is that the majority of the state can contact Juneau directly for only four and one half hours a day. Most of us who have to deal with the state government in Juneau find ourselves frustrated trying to cram our business into this short period and lately the problem has been compounded by inadequate phone service.

I think that most of us agree that the capital should be made more accessable. However, I disagree that the best way to handle this problem is to move the capital to Central or Southcentral Alaska. This alternative, while clearly the most simple, would ruin the economy of the Juneau area. A recent study prepared for the City and Borough of Juneau indicates that the capital move would cost the Juneau area 2,347 government jobs and an annual payroll of over $38 million. This problem is further compounded by estimates that the population would drop from 16,593 to 6,171 if the capital were relocated and nothing came into the city economy to take its place.

I feel quite strongly that if Southeastern Alaska was on the same time as Central and Southcentral that we would be taking a giant step forward in improving the availability of the capital to the majority of Alaskans. Currently, the two hour time difference is just another obstical in trying to deal with our state governmen . Travelers to Southeastern lose two hours and what would normally be a one our flight takes a three hour chunk from everyone's schedule. The day after you arrive you suffer from "Jet lag" and starting the day two hours earlier than usual is a trying affair.

There are presently three options which would greatly increase accessability to the state and wouln't cost the taxpayers anything. The first would be to change the time zone in Southwestern from Pacific Standard Time to Yukon Standard Time. As documented in Table 2 this would increase the number of hours which we can communicate with Southeastern from four and one half to five and one half, a gain of 22% more time. A second solution would be to change the time to Yukon Standard and change the office hours of State employees from 9:00 a.m. to 4:30 p.m. to 8:30 a.m. to 5.00 p.m. This is illustrated in Table 3 and would result in the rest of the state gaining an additional one half hour of time to communicate with Southeastern. This represents an improvement of 33% more accessability to the capitol than we hve now.

The final solution is total parity. One time for the entire state. While this does have exciting possiblities, I

don't know what impact this option would have. Nome and Kotzebue would also be affected as well as most of the communities in that part of Alaska. However, we sould gain the advantage of being able to communicate with and travel to Juneau with much of the ease we now travel to & from Fairbanks. It would be easy to commute by taking a seven o'clock flight in the morning and a six o'clock flight in the afternoon. Problems associated with jammed communication circuits during business hours would ease because instead of only four and one half hours we would suddenly have seven and one half hours of communicating time available.

While I am not in a position to do anything other than outline what I think is a good idea. I hope that this does make some sense and that I'm not just rambling on about something which is way way out.

TABLE I

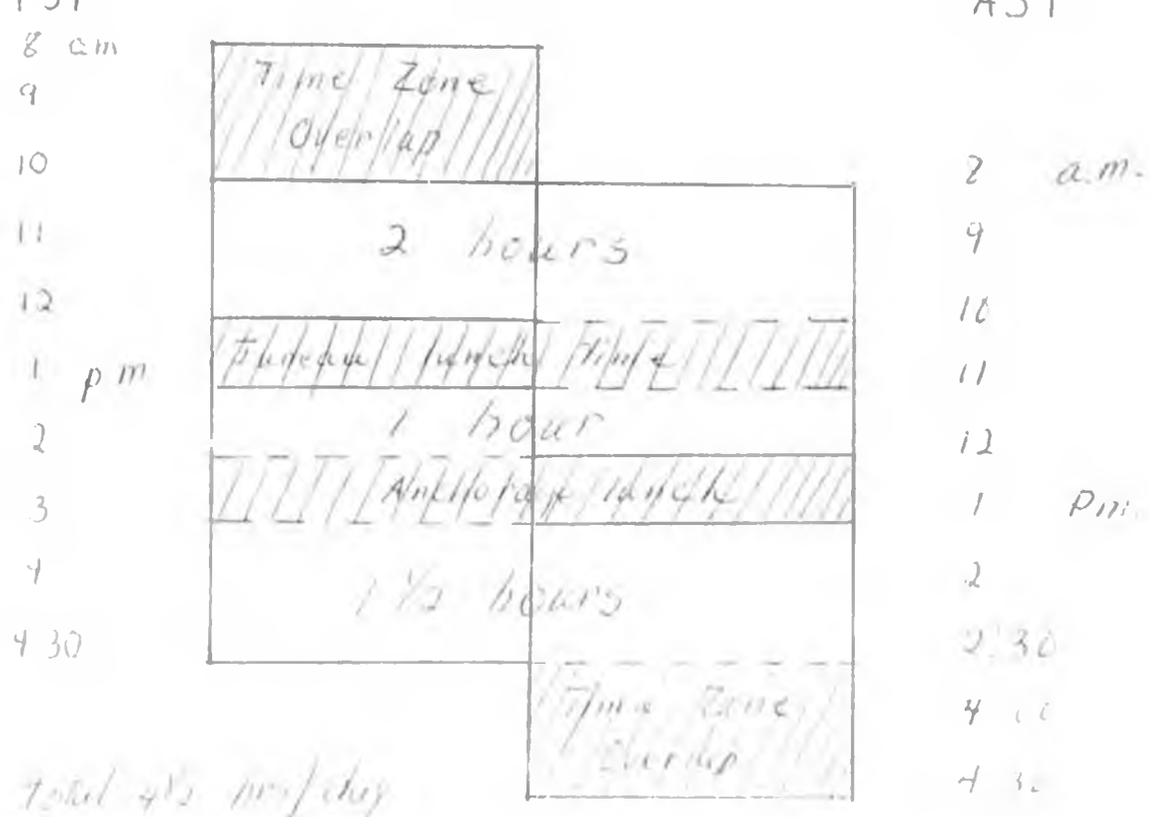
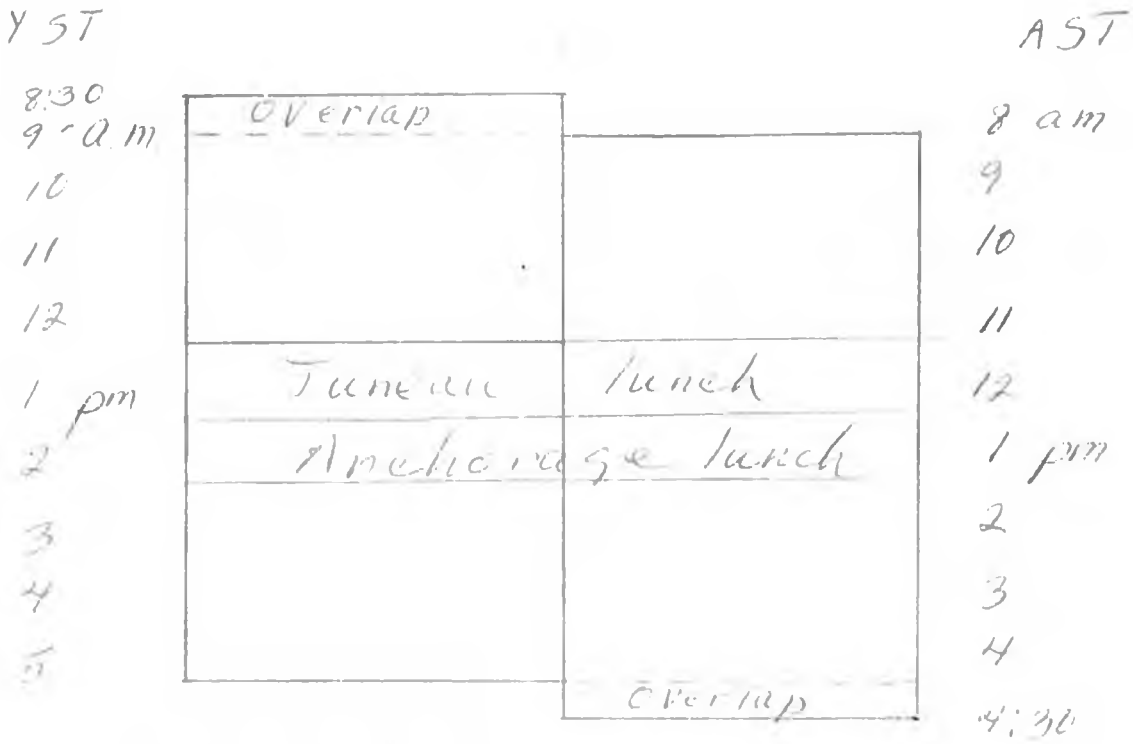


TABLE 2

TABLE 3



Total 6 hours

Change office hours in yukon
from 8 am - 4:30 pm to 8:30 am - 5 pm
that would be coupled with a time change

C55B57

"An Act relating to the merger or consolidation of certain corporations; and providing for an effective date."

COMMITTEE REPORT

3/14/75

HOUSE

Mr. Speaker: Date 3/12/75

The Committee on Commerce has had CSSB 57 under consideration. A Majority of the members of the Committee

(X) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

File

WILKINSON, CRAGUN & BARKER

LAW OFFICES

THE OCTAGON BUILDING

1735 NEW YORK AVENUE, N.W.

WASHINGTON, D.C. 20006

(202) 833-9800

CABLE ADDRESS

"WILCBAR"

ERNEST L. WILKINSON
JOHN W. CRAGUN (1908-1969)
GLEN A. WILKINSON
ROBERT W. BARKER
CHARLES A. HOBBS
ANGELO A. IADAROLA
PAUL S. QUINN
LEON T. KNAUER
RICHARD A. BAENEN
JERRY C. STRAUS
HERBERT E. MARKS
PIERRE J. LAFORCE
FRANCES L. HORN
GORDON C. COFFMAN

ROSEL H. HYDE
DONALD C. GORMLEY
Counsel

R. ANTHONY ROGERS
PATRICIA L. BROWN
WILLIAM R. LOFTUS
STEPHEN R. BELL
THOMAS J. BACAS
FOSTER DeREITZES
ALAN I. RUBINSTEIN
JOHN M. FACCIOLA
PHILIP A. NACKE
H. MICHAEL SEMLER
THOMAS E. WILSON
JERRY R. GOLDSTEIN
EDWARD M. FOGARTY
S. STEVEN KARALEKAS

March 11, 1975

Senator Frank Ferguson
Pouch V
Juneau, Alaska 99801

Re: NANA Regional Corporation, Inc. - Merger

Dear Frank:

In light of our telephone conversation of yesterday, we enclose herewith a copy of S.685, introduced by Senator Stevens on February 17, 1975, authorizing mergers or consolidations of corporations formed under the Alaska Native Claims Settlement Act. You will note that Section 1(c) of the bill clearly provides that stockholders voting on the merger may exercise dissenters' rights accorded them under Alaska law. Without this provision the question of dissenters' rights would have remained ambiguous.

Sincerely yours,

WILKINSON, CRAGUN & BARKER

By: Foster De Reitzes

enc.

cc: (w/enc.) William H. Timme, Esquire

MEMORANDUM

RE: A Bill Relating to the Merger or Consolidation of Corporations Organized Pursuant to the Alaska Native Claims Settlement Act

This memorandum is submitted to provide back ground information on legislation being sought by certain of the corporations formed pursuant to the Alaska Native Claims Settlement Act (P.L. 92-203; 85 Stat. 688) (The "Settlement Act"). I submit the bill on behalf of my constituents in the northwest region of Alaska, centered around Kotzebue. However, the bill has general application throughout the State and the reason my constituents need the legislation is as equally compelling for many of the other corporations in the State formed pursuant to the Settlement Act.

The regional corporation for my region is NANA Regional Corporation, Inc. The Region has eleven village corporations. It is anticipated that the stockholders of some of all of these corporations will vote at their next stockholders' meetings, scheduled for this April, on a proposal to merge corporations.

The proposed bill is intended to facilitate mergers or consolidations among these corporations. It applies, however, only to mergers or consolidations within a given region. Under AS 10.05.500, any merger or consolidation requires the affirmative vote of the holders of at least two thirds of the outstanding shares of each participating

corporation. If a class of shares of a corporation is entitled to vote as a class, the merger or consolidation also needs the affirmative vote of the holders of at least two-thirds of the outstanding shares of that class. The proposed bill changes these vote requirements for any mergers or consolidations in which all participating corporations were organized pursuant to the Settlement Act. It also would apply if corporations resulting from such mergers subsequently merged with each other or with additional corporations in the region organized under the Settlement Act.

The bill lowers the affirmative vote requirement for any such mergers from two-thirds of the outstanding shares of the corporation to a majority of the outstanding shares. A meeting, of course, cannot transact any business unless the quorum requirements are met. Similarly, if class voting is applicable, the amendment lowers the affirmative vote requirement to a majority of the outstanding shares of the class.

It should be mentioned that almost any merger that might take place between Settlement Act corporations will be subject to review by the Securities and Exchange Commission. This certainly is true in my Region. In addition, any plan of merger or consolidation must be approved first by the respective boards of directors of

the merging or consolidating corporations prior to presentation for vote to the respective shareholders. In addition, dissenting shareholders will retain their rights under AS 10.05.417, et seq. The amendment, therefore, will not have the effect of making mergers easy, nor is there any reason to fear it will leave stockholders without a complete vote. Corporate by-laws mandate every shareholder be sent a proxy form and sufficient notice and agenda provided each shareholder.

The need for this bill arises from the realization by the boards of the various corporations in the NANA Region that the only hope for long-term survival of their corporations is to merge either with each other or with the Regional corporation. Many of the village corporations are quite small and receive only small amounts of funds under the Settlement Act. They do not feel that they have any significant chance of ever becoming profitable business corporations on their own. They are, in effect, living off themselves, and this cannot last. However, if several of these small corporations merge into one or merge into NANA, the resulting larger corporation would have a much better opportunity of becoming a viable business enterprise, and its chances for survival would be vastly improved.

In my Region, infusion of capital from NANA and the village corporations has helped everyone in the area. I am certain this is true throughout the State.

One of the main obstacles to the corporations'

successfully carrying through any plan of merger or consolidation is the requirement, in section 390 of the Alaska Business Corporation Act, that a merger must be approved by at least two-thirds of the outstanding shares of each corporation. Past experience in the bush areas shows that because of communication problems, transportation considerations and the fact that corporate activity and the rights of stockholders is new, if not alien, to many of the shareholders, it is difficult to secure major vote turnouts. If presented with a proposal for merger, the shareholders might neither appear at the meeting to vote in person, nor vote by proxy. Among stockholders who actively participate in their corporations, a large majority favor merger, and among these, receiving a two-thirds affirmative vote is not viewed as presenting any serious problem. However, even if 100% of these involved shareholders vote in favor of merger, the merger of some corporations stands to be defeated simply because another segment of stockholders have not voted. Regardless of the reasons for abstention, such a group of stockholders through its inaction could frustrate perpetually the wish of the other stockholders from ever being carried out, and, as noted, without merger, it is expected that many of these corporations eventually will be bankrupt.

For this reason, it appears eminently fair to change the degree of approval required for these corporations from two-thirds of all outstanding shares to a

majority of the outstanding shares. This would preclude a vitally necessary merger from being perpetually defeated solely by inaction on the part of one group of stockholders. No one would be deprived of his vote or of the right to help determine the outcome. Any stockholder wishing to defeat a merger proposal always could do so by voting against it either at the meeting or by proxy. Only if the stockholder did not bother to cast a vote would his shares not be counted in determining whether the merger will be approved.

Two other features of the bill should be mentioned. First, it is limited in time to December 17, 1991, at which time the corporations will have been in existence for almost twenty years and at which time the stock of the corporations no longer will be inalienable. This time frame seems appropriate, for it lasts only as long as these corporations are treated legally somewhat different from other Alaska corporations and it will provide sufficient time for these new corporations to sort out the many problems of adjustment and development and give adequate time for them to see if they can make it on their own.

Second, the bill affects only mergers within a given region pursuant to the Settlement Act.

SB 1/9 AM

"An Act relating to smoke and fire detection devices in mobile and modular homes."

Return to Commerce

2/13/79

COMMITTEE REPORT

HOUSE

Mr. Speaker: Date _____

The Committee on Commerce has had SB 119 am under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

ALASKA MOBILE HOME ASSOCIATION

505 NORTHERN LIGHTS BLVD.
ANCHORAGE, ALASKA 99503

FEBRUARY 19, 1975

REP. BOB BRADLEY
CHAIRMAN, HOUSE COMMERCE COMMITTEE
POUCH V - STATE CAPITOL
JUNEAU, ALASKA 99801

RE: HOUSE BILL 119

DEAR BOB:

THE ALASKA MOBILE HOME ASSOCIATION HAS STUDIED HOUSE BILL 119, WHICH CALLS FOR APPROVED DETECTION DEVICES TO BE IN ALL MOBILE HOMES SOLD IN ALASKA. WE NOTE THAT THE ALASKA STATE MOBILE HOME CODE NOW REQUIRES SUCH DEVICES FOR ALL UNITS BROUGHT INTO THE STATE. HOUSE BILL 119 WOULD APPARENTLY EXPAND THE REQUIREMENT TO USED MOBILE HOMES IF SOLD IN THE STATE.

THE AMHA IS NOT OPPOSED TO THIS BILL, PROVIDING IT IS AMENDED TO INCLUDE ALL DWELLING UNITS. FIRE PROTECTION IS JUST AS IMPORTANT TO PERSONS LIVING IN HOUSES OR APARTMENTS AS IT IS TO THOSE LIVING IN MOBILE HOMES. CONVERSELY, MOBILE HOMES ARE SIMPLY ONE TYPE OF DWELLING UNIT, AND SHALL NOT BE TREATED ANY DIFFERENTLY THAN OTHER TYPES.

PLEASE ADVISE ME OF THE DATE YOUR COMMITTEE WILL HOLD A HEARING ON HOUSE BILL 119.

SINCERELY,

Ben Marsh

BERNARD L. MARSH
EXECUTIVE SECRETARY
ALASKA MOBILE HOME ASSOC.

BLM/SD

CC: GALE KINCAID, PRES.

03-03-75

H. Commerce

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION
ANCHORAGE INSURING OFFICE
337 WEST FIFTH AVENUE
ANCHORAGE, ALASKA 99501

REGION X
Arcade Plaza Building
1321 Second Avenue
Seattle, Washington 98101

File

February 27, 1975

IN REPLY REFER TO:
10.3UM .

Honorable H. D. Meland
Alaska State Senate
Pouch V
State Capitol
Juneau, Alaska 99801

Dear Senator Meland:

A review of Senate Bill No. 119 am, "An Act relating to smoke and fire detection devices in mobile and modular homes," has been made and we concur in the need for such legislation in light of the numerous fire fatalities each year. If the State of Alaska has not already done so, it would be advisable to legislate this same requirement for all living units.

Enclosed for your review are copies of the HUD Minimum Property Standards and the Uniform Building Code which relate to the same subject.

We give our solid support to your Bill and congratulate you on your efforts to protect the citizens of Alaska.

Sincerely,

Roger A. Riddell
Director

Enclosures-2

SB 135

SB 135

OFFICE OF THE SUPERINTENDENT

ANCHORAGE BOROUGH
SCHOOL DISTRICT
670 FIREWEED LANE ▫ ANCHORAGE ALASKA
99503
AREA CODE 907 277-6652

Date Feb

February 14, 1975

The Honorable Bob Bradley
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99801

Dear Mr. Bradley:

I urge you to carefully consider all of the ramifications of S.B. 135 which was introduced last week.

If passed, this bill would allow a mediator/arbitrator, to make final decisions on operational policy and financial management. This could bankrupt a school district.

This "arbitrator philosophy", with final and binding powers specified in the bill, completely destroys the democratic process of local control by the elected representatives, the School Board.

I request that you do not support S.B. 135.

Sincerely yours,

Joe D. Montgomery

Joe D. Montgomery
Superintendent

JDM:pa

cc: School Board Members

AIR MAIL TO ALASKA IS FASTER

KETCHIKAN GATEWAY BOROUGH SCHOOL DISTRICT

P. O. Box 2550
KETCHIKAN, ALASKA 99901
907-225-2118

February 13, 1975

The Honorable Bob Bradley
Alaska State House of Representatives
Pouch V, State Capitol Building
Juneau, Alaska 99801

Dear Representative Bradley:

The Board of Education of the Ketchikan Gateway Borough School District is very much concerned about SB 135 and to express their concern have unanimously passed the following Resolution. They hope that when this Bill comes up for consideration you will be aware of their opposition.

RESOLUTION NO. 152
A RESOLUTION OF THE KETCHIKAN GATEWAY
BOROUGH SCHOOL DISTRICT OPPOSING SB-135

WHEREAS: Pending legislation, to wit, SB-135 introduced to the Ninth Legislature would provide for binding arbitration in the negotiation process with certified employees of school districts, and,

WHEREAS: This proposal would wrest much of the financial control of the school district's finances from the School Board and the Borough Assembly and thrust it into the hands of a disinterested party with possible adverse results, and,

WHEREAS: This proposal would wrest control of working conditions from the School Board, and the teachers' bargaining group and place it in the hands of a third party where decisions could be made capriciously or arbitrarily to the detriment of the teachers, the students or the school district, and,

WHEREAS: The legislation would take the control of hitherto non-negotiable items from the Board and subject them to the same risks enumerated above, and,

WHEREAS: If such control is lost by School Boards, they will be much less effective in their efforts to bring forth the highest quality education at the lowest cost to the public,

BE IT RESOLVED that the Ketchikan Gateway Borough Board of Education go on record as being opposed to this legislation.

Sincerely,

R. W. Stekl
Superintendent of Schools

AIRMAIL TO ALASKA

FAIRBANKS NORTH STAR BOROUGH SCHOOL DISTRICT
P.O. Box 1250, Fairbanks, Alaska 99707 (907) 456-7934

CHUCK SMITH
Superintendent of Schools

GEORGE T. KEEFE
Assistant Superintendent

GARY SWART
Business Manager

February 13, 1975

The Honorable Bob Bradley
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99801

Dear Sir:

We, the administration of the Fairbanks North Star Borough School District, respectfully request your opposition to Senate Bill 135 (Mediation and Arbitration), Section 14.20.570.

This bill will usurp the authority of local school boards in maintaining local control. We feel this bill is contrary to public wishes.

Thank you for your consideration.

Sincerely,

Chuck

Chuck Smith
Superintendent

ECS:pw

JOE BIELSKI
Director
Special Education

CHARLES CLARK
Director
Support Services

DALE DURRWACHTER
Director
Personnel Services

C. J. HORNER
Director
Building and Grounds

MARLIN HULETT
Director
Education

JERRY MORANG
Director
Federal Programs

P. O. Box 566
Valdez, Alaska 99686
February 13, 1975

Honorable Mike Bradner, Speaker
Alaska House of Representatives
Pouch V State Capitol
Juneau, Alaska 99801

Dear Representative Bradner:

Regarding SB 135 mandating binding arbitration in negotiation process between school districts and certified employees. It is vital that this legislation be defeated.

At stake is who will ultimately control public education--the public's elected representatives or the union.

An almost universal lament is the deterioration of public education. Certainly there are many contributing factors to the results that lead to this lament, but one of the most accepted is shortage of qualified dedicated teachers of high principles. This increasing shortage, in a market glutted with certified teachers, parallels the increase in power and influence of teacher unions and the militancy that they purposely and blatantly inspire.

Against this tide stand boards of education and one of the last and best remaining tools of entrenchment they have is that in the event of an absolutely unacceptable decision by an arbitrator the board still rules. In the last analysis we still have local control of public education.

The unions continue to work toward emasculation of the system of public education that over years put this country on top.

We all have our motives. That of (unpaid) school boarders is education of the next generation. The union, as most unions, ultimately seeks money and power. Who will you have run the system?

Please defeat SB 135.

Sincerely yours,

James Lindsey
Member, Valdez School Board

cc: All members
Alaska House of Representatives

SB 153

"An act relating to sound recordings."

COMMITTEE REPORT

HOUSE

Mr. Speaker: Date _____

The Committee on COMMERCE has had SB 153

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

DeHart and Broide

March 28, 1975

The Honorable Robert Ziegler
Pouch V
Capitol Building
Juneau, Alaska 99801

Dear Senator Ziegler:

I appreciate your taking the time to discuss Senate Bill 153 with me by phone. This letter is in response to your request for information concerning the merits of the bill.

S.B. 153 amends the present law, which was enacted last year as House Bill 680.

Federal law prohibits the unauthorized manufacture or sale of sound recordings released after February 15, 1972. This was done in late 1971 through extension of the federal copyright law (Public Law 92-140). Congress did not grant this limited copyright to sound recordings published prior to February 15, 1972 because this would have involved granting a copyright retroactively. Recordings produced by legitimate manufacturers after that date display this symbol to indicate post February 15, 1972 production.

℗

As you can understand, when the original copyright law was enacted in 1909, no one foresaw the future popularity of sound recordings, the development of the tape recording, and the ease with which tapes can be duplicated today.

State laws are necessary to protect pre-February 15, 1972 recordings because tape piracy remains a widespread problem, diverting hundreds of millions of dollars from those who have legitimately earned it. It is estimated that nearly one out of every three tape recordings sold in the U.S. is a pirate copy. Because of piracy, some $200 million a year is diverted from its rightful recipients -- artists, musicians, music publishers, composers, retailers, wholesalers and record manufacturers, and the unions. (Some background material on the piracy problem is enclosed as Attachment A.)

The U.S. Department of Justice has recommended to the states that special legislation be adopted to prohibit piracy.

DeHart and Broide, Inc., Public Affairs Counsel
1505 22nd Street, N.W., Washington, D. C. 20037
202-659-4004

To date, some 27 states have passed criminal laws against record piracy, and this number is expected to grow. (See Attachment A-1, page 9.)

The constitutionality of state anti-piracy laws has been upheld by the U.S. Supreme Court (Goldstein v. California, 412 U.S. 546, June 1973).

State laws are necessary because record piracy continues to be rampant. This is unfair competition, and also deprives the lawful owners of sound recordings of their property and their profits.

Record piracy has been consistently held unlawful in various U.S. courts, even in the absence of state anti-piracy statute.

Moreover, four U.S. Circuit Courts of Appeals have ruled that the compulsory licensing provisions of the Copyright Act may not be used as justification for unauthorized duplication of sound recordings. These appeals came about because some pirates argued that they are "legal" when they pay royalties to the music publishers.

Despite these court decisions, piracy continues. That is because a pirate found guilty in one jurisdiction merely moves to another. Piracy is so profitable that the pirates are willing to take the risk of misdemeanor penalties, with modest sentences or fines. Under such circumstances, it is up to the states to join with the federal government to protect law-abiding citizens and declare piracy illegal.

Like the other states, Alaska has also been the scene of a good deal of pirate sales of recordings. A state law is therefore important.

The amending bill introduced by Senator Chance defines "owner" in a manner developed in discussions with the Justice Department, and stemming from court decisions. It also contains an amendment (starting on line 13) which would curtail the growth of so-called "sound-alike" recordings. A sound-alike recording is one which simulates a hit recording by imitating the style and sound of the original performer(s). Sound-alikes generally involve deceptive packaging, labeling display techniques, as well as advertising, which are intended to dupe the consumer into believing that he is buying the original.

Full disclosure of the name of the manufacturer and the performers, as required by Senator Chance's bill, should alert the would-be buyer to the fact that he is buying a simulation, not the original.

The production of sound-alikes has been growing as a result, we believe, of the crackdown on pirates. (See Attachment B for background information on sound-alikes.)

On behalf of the Recording Industry Association of America, our client, we urge that the Alaska legislature enact Senate Bill 153. Its passage is supported by all segments of the legitimate recording industry, including the manufacturers, the artists, musicians, the American Federation of Musicians, music publishers and composers, wholesalers and retailers.

If you have questions, we would be pleased to answer them.

Sincerely,

Edward H. DeHart

Enclosures
EDH:jn

SB 187

"An Act relating to membership on the Board of Registration for Architects, Engineers and Land Surveyors; and providing for an effective date."

COMMITTEE REPORT

3/19/75

HOUSE

Mr. Speaker: Date _____

The Committee on Commerce has had SB 127 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR 6182 AND THAT CS FOR 6182 DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

HEWITT V. LOUNSBURY & ASSOCIATES
ENGINEERS PLANNERS SURVEYORS

File SB 187

See about doing a bill in this fall with LWI

March 19, 1975

The Honorable Bob Bradley
601 North Bragaw
Anchorage, Alaska 99504

Dear Mr. Bradley:

A copy of a letter from J. Ray Roady requesting assistance from the Alaska Society of Professional Land Surveyors has been circulated among its members.

This letter asked for proposed names of land surveyors to fill a vacancy on the Board of Registration for Professional Architects, Engineers and Land Surveyors.

I am concerned with the requirement in AS 08.48.011(b) which has been interpreted to mean that the land surveyor member of the Board must also be a registered engineer. This requirement results in a very limited representation for land surveyors since no person sits on the Board that is primarily a land surveyor and has become a land surveyor on the basis of testing and experience as required by the Registration Act.

I sincerely hope that you will assist in making it possible to appoint a Board that is truly representative of all three professional disciplines.

Please assist myself and my fellow registered land surveyors, as well as those people who will be applying for registration as land surveyors to the Board, and initiate action in the Legislature to amend the Act to provide for true representation of land surveyors by placing a person on the Board solely registered as a land surveyor.

Respectfully yours,

HEWITT V. LOUNSBURY & ASSOCIATES

Leon A. Stevens

L. Albert Stevens, R.L.S.
#2074S

LAS/eq

HEWITT V. LOUNSBURY & ASSOCIATES
ENGINEERS PLANNERS SURVEYORS 723 W 6th Avenue, Anchorage, Ak 99501 Tel (907) 272-5451

Rep. Bob Bradley
File
SB 187

March 19, 1975

The Honorable Genie Chance
Box 2392
Anchorage, Alaska 99510

Dear Mrs. Chance:

A copy of a letter from J. Ray Roady requesting assistance from the Alaska Society of Professional Land Surveyors has been circulated among its members.

This letter asked for proposed names of land surveyors to fill a vacancy on the Board of Registration for Professional Architects, Engineers and Land Surveyors.

I am concerned with the requirement in AS 08.48.011(b) which has been interpreted to mean that the land surveyor member of the Board must also be a registered engineer. This requirement results in a very limited representation for land surveyors since no person sits on the Board that is primarily a land surveyor and has become a land surveyor on the basis of testing and experience as required by the Registration Act.

I sincerely hope that you will assist in making it possible to appoint a Board that is truly representative of all three professional disciplines.

Please assist myself and my fellow registered land surveyors, as well as those people who will be applying for registration as land surveyors to the Board, and initiate action in the Legislature to amend the Act to provide for true representation of land surveyors by placing a person on the Board solely registered as a land surveyor.

Respectfully yours,

HEWITT V. LOUNSBURY & ASSOCIATES

L. Albert Stevens, R.L.S.
#2074S

LAS/eq

SB277

Juneau & Douglas Telephone Company
A Member of Continental Telephone System

2093 Jordan Ave./P.O. Box 2008
Juneau, Alaska 99803
(907) 789-0280

April 2, 1975

Mike Colletta
Senate Minority Leader
Pouch 5
Juneau, Alaska 99811

Members of the Senate Commerce Committee - Senate Bill 277

The following comments are submitted to the Senate Commerce Committee now conducting hearings on Senate Bill 277 "An act creating the Alaska Telecommunications Authority."

Senate Bill 277 appears to solicit competition by state-subsidized ASHA-type organization, politically controlled and unregulated by any state or federal regulatory agency.

Can this authority "cream-skin," i.e., take "good" customers away from regulated utilities, but leave them with everybody else?

Senate Bill 277 would have a devastating impact on privately owned utilities, which already have an eroding base of customers (because of interconnect) and would put telephone utility revenues in serious jeopardy.

Telephone utility revenues are not the only ones that would be adversely affected. The impact on local communities, where telecommunications authority provides service, would experience a loss in tax base.

Senate Bill 277, Section 44.53.060, states the authority has the general power to:

(1) Acquire, construct, operate, and maintain domestic communication satellites, satellite earth stations, translator systems and a statewide public service telecommunications network.

This language is not entirely clear, but presumably means authority to provide to the public, not just state agencies, any kind of service, local or long-line facilities. This raises possibility of a public, tax-subsidized carrier wiring into any phase of the state-wide network at any time, without any prior approval by the Alaska Public Utilities Commission. This makes planning by private utilities, particularly budget planning, futile and fraught with difficulty.

Several questions need to be resolved in regards to bonds

(1) Has bond market been surveyed?
(2) Would revenues be sufficient to support or would tax subsidies be required?
(3) If so, how much?
(4) Would rates be below cost in order to subsidize, as with some ASHA programs?

Clearly such an authority would discourage private utilities from risking capital, such as large-scale construction programs, where possibility exists of entry by authority into competition for utilities customers. There is no certainty that this would not occur.

Section 44.53.120 says authority can acquire stock of company owning telecommunications facilities. Does this mean Authority will require or need authority to condemn private facilities in order to take them over?

In regards to Senate Bill 277, the following is suggested:

(1) Limits on authority to protect existing utilities and assure continuation of investment and construction.

(2) A review of the possible impact on both private and municipally-owned utilities in their future borrowing, with all-powerful authority able to compete. This must be protected against.

(3) People should not be at the mercy of another ACS-type un-regulated system. This was one of the reasons for the sale of ACS to the private section. Private companies may need to improve (we can concede this), but government ownership was clearly considered a failure. How would state ASHA-type organizations be the solution? Before a bill, we recommend a thorough state-wide survey into needs, existing facilities, problems and proposed solutions by private enterprise---also a close look at how Authority operation would impact private utility operation, revenue, and financing.

Sincerely,

JUNEAU & DOUGLAS TELEPHONE COMPANY
GLACIER STATE TELEPHONE COMPANY

Ken Larsen by dlq

Ken Larsen
Alaska State Manager

CSSB 320

"An Act relating to the Accountancy Act; and providing for an effective date."

COMMITTEE REPORT

5/5/75 HOUSE FINANCE

Mr. Speaker: Date 4/2/75

The Committee on COMMERCE has had 883B 320 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it Bt REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

ARTHUR R. TIMM
CERTIFIED PUBLIC ACCOUNTANT

4497 BUSINESS PARK BLVD.
ANCHORAGE, ALASKA 99503
(907) 274-8659

February 10, 1976

Honorable Bob Bradley
Chairman
House Commerce Committee
Pouch V
Juneau, Alaska 99801

Re: SB 320 -- Accountancy Act

Dear Mr. Bradley:

I'm writing in my capacities of Legislative Committee Chairman of the Alaska Society of Certified Public Accountants and President of the Alaska State Board of Public Accountancy.

Both the Society and the Board support SB 320 and sincerely hope the legislature will pass it this session in its present form. Essentially, the bill strengthens regulation of presently licensed CPA's by requiring their continuing education without disturbing the status of licensed Public Accountants. It also recognizes the corporate form of practice for accountants (already permissible) and makes some housekeeping amendments.

We urge your committee to report out SB 320 as soon as possible with a do pass recommendation. If you wish to hold a hearing on the bill I'd appreciate being informed so that the accounting profession may be represented.

Very truly yours,

A. R. Timm

mm

SB 334

"An Act enabling a mutual bank to invest in a property improvement note in a principal amount not in excess of $10,000."

COMMITTEE REPORT

5/12/75

HOUSE

Mr. Speaker: Date _____

The Committee on COMMERCE has had SB 334 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF COMMERCE

DIVISION OF BANKING, SECURITIES, SMALL LOANS & CORPORATIONS

POUCH D — JUNEAU 99801

May 28, 1975

Honorable Robert Bradley
Chairman House Commerce Committee
State Capitol
Juneau, Alaska 99811

Honorable Bradley:

Re: Senate Bill 334

The amending of paragraph (4) of AS 06.15.240 clarifies the lending limitation to be 10,000.00 principal amount, not including interest. The current use of "face amount" is ambiguous and a definate clarification is needed. For example there is no clear meaning for "face amount". Some define it with interest included, others define it without interest added to the principal amount.

Sincerely,

Miles S. Schlosberg
Director

Tony W. Rivera
Bank Examiner

TWR/ws

SB 354

"An Act Relating to limited liability companies."

COMMITTEE REPORT

3/2/76

JUDICIARY

HOUSE

Mr. Speaker: Date _____

The Committee on COMMERCE has had CSSB 354 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

HUGHES THORSNESS GANTZ POWELL & BRUNDIN
Attorneys at Law
509 THIRD AVENUE
ANCHORAGE, ALASKA 99501
Phone 907-274-7522
Cable: DENALI

Fairbanks Office
550 AIRPORT WAY
FAIRBANKS, ALASKA 99701
Phone 907-479-2271

JOHN C. HUGHES
RICHARD O. GANTZ
BRIAN J. BRUNDIN
KENNETH P. JACOBUS
JERRY E. MELCHER
JOE M. HUDDLESTON
RICHARD D. THALER
FRED B. ARVIDSON
MARY HUGHES PATCH
ROBERT T. PRICE
DAVID H. THORSNESS
JAMES M. POWELL
MARCUS R. LAPP *
GARY W. GANTZ
IRVING S. BERMAN
SIGURD E. MURPHY
CARL J. D. BAUMAN
DENNIS M. BUMP *
FRANK A. PFEFFNER
RALPH R. BEISTLINE *

* Fairbanks Office

March 22, 1976

The Honorable Bob Bradley
Representative
Chairman
House Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: CSSB 354

Dear Bob:

This is written to express the support of myself and some of my law partners who practice commercial law for passage of the Limited Liability Company Act embodied in CSSB 354.

The ability to use a limited liability company would provide an additional and useful tool for many Alaskans and others to invest in Alaska. While it would not be useful to everyone, we think it would bring additional badly needed capital into the state from a substantial number of people who would use it.

Very truly yours,

HUGHES, THORSNESS, GANTZ,
POWELL & BRUNDIN

By
Brian J. Brundin

BJB/bap
cc: Robert L. Hartig

COLE, HARTIG, RHODES, NORMAN, MAHONEY, & GOLTZ
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
SUITE 201
717 K STREET
ANCHORAGE, ALASKA 99501
(907) 274-3576

HOYT M. COLE
ROBERT L. HARTIG
JAMES O. RHODES
JOHN K. NORMAN
ROBERT J. MAHONEY
KEITH A. GOLTZ
BERNARD J. DOUGHERTY
—
G. RODNEY KLEEDEHN

February 24, 1976

MEMORANDUM

RE: CS Senate Bill #354, Limited Liability Company Act

Senate Bill 354 was introduced by Senator Colletta in the first session of the ninth legislature and hearings on the bill have been held in the Senate Commerce and Judiciary Committees.

The bill should provide additional revenues to the State of Alaska in excess of one million dollars per year. This revenue will be derived from filing fees and annual fees for the registration of the limited liability company.

The Act is designed to provide a business entity to be used by persons desiring to invest both in Alaska and outside Alaska. Through its use as an investment entity outside Alaska, the Act would provide revenue to the state without corresponding liability of any kind.

Use of the limited liability company will not in any way reduce income taxes payable to the state as it will be used mainly by investors currently using a partnership or limited partnership form.

Miles Schlosberg, Director of the Division of Banking, Securities, Small Loans & Corporations, has testified before the Senate Judiciary Committee on two occasions and the administration has taken a position of "in favor" in their letter to Senator Jalmar M. Kerttula of May 5, 1975.

Enclosed are explanatory materials to assist you with regard to the proposed legislation.

Robert L. Hartig

MEMORANDUM

LIMITED LIABILITY COMPANY

The limited liability company has predecessors in New Jersey, Pennsylvania, Michigan and Ohio. In New Jersey and Ohio it was known as a "limited partnership association" and in Pennsylvania and Michigan as a "partnership association".

The business entity which we will now call the limited liability company had its origins in the third quarter of the 19th century. It was adopted in Pennsylvania in 1874, in Michigan in 1877, in New Jersey in 1880, and in Ohio in 1881. No other states have used this form of business entity.

The reason for its creation seems to be the particularly restrictive corporation statutes common in the late part of the 19th century. At that time in the development of the corporate entity, the restrictions in some states included the limitation of business to one state, the limitation of the corporation's business to a sole purpose stated in the Articles of Incorporation and various similar confining requirements. In the early days of the development of the corporation, the case law also was extremely restrictive on what a corporation could do and how it could do it, because of the roots in the English system that a corporation, being chartered by the Crown, was authorized to do only what the Crown specifically authorized it to do.

In the early 20th century, these restrictions on corporate activity were greatly reduced and have continued to be reduced through the introduction of the Delaware corporate statute and the Model Business Corporation Act, upon which many states have based their corporation statutes. These statutes gave much greater freedom to the shareholders and the board of directors to structure the activities of the corporation to meet their particular needs. This has especially been true in the close or closely held corporation which most often is a family corporation. Indeed, some states have adopted statutes which govern the activity of such close corporations and give them wide latitude in arranging their affairs. As these new corporate statutes were adopted by the various states and the case law governing the activities of corporations began to be less restrictive, the vehicle of the limited partnership association or partnership association fell in to disuse.

In introducing the Limited Liability Company Act in the State of Alaska, it is our desire to provide to investors, and particularly real estate investors, the opportunity to utilize this new form of business entity to conduct their business affairs with less expense and fewer restrictions.

The Ohio statute proves to be not usable for these objectives because of its preclusion of dealing in real estate

from the uses of the Ohio Limited Partnership Association, (Ohio Rev. Stats. §1783.01).

Also, the statutes in the other states are substantially more restrictive than the Alaska legislation being introduced and thus provide a less useful vehicle for conduct of a business. For example, the New Jersey statute (NJ Stats. Ann. §42.3-1) requires that the principal place of business of a New Jersey limited partnership association must be established and maintained within the State of New Jersey. The Ohio and Michigan statutes, though a little less restrictive, still require that that organization shall have its principal office or principal place of business within the state. The Pennsylvania statute was repealed in 1966, except as to professions which are not permitted to incorporate in the state.

The Alaska proposed legislation does away with this requirement as to the principal office or principal place of business. The reason for this is the desire to draw to the state investors interested in organizing under the Alaska Limited Liability Company Act for business or investment in other states as well as the State of Alaska. The legislation requires a registered agent in the state which would always insure a resident on whom process can be served in suit against the limited liability company.

The legislation proposed would provide a good amount of revenue each year to the state as there are provisions in the proposed legislation for the following fees:

1. A filing fee upon formation of the Limited Liability Company, which is based on capital invested upon a sliding scale to a maximum of $1,000;
2. An annual fee of $100;
3. A filing fee for amendment to the Certificate of Organization of $25.00; and
4. A filing fee of $25.00 upon dissolution.

It is suggested that this form of business entity will draw a substantial number of investors from other states who, up to this time, have used the limited partnership, corporation or joint venture vehicle for their investments.

In the first ten months of 1974, approximately 1,300 limited partnerships were filed in the State of Texas, which requires a filing of the limited partnership within the state. In Texas this is used as a revenue measure and there is a requirement of a filing fee which rapidly reaches the maximum fee of $2,500 at capital contributed of $500,000. This figure would not at all be uncommon in the real estate market of today.

It is estimated that in excess of half of these limited partnerships would be drawn to use the Limited Liability Company authorized by the proposed legislation in the

State of Alaska to conduct their business or to direct their investments, thus providing this increased revenue for the State. This figure is only for the State of Texas and it is suggested that this legislation would be attractive to investors of all states and may substantially contributed to the revenue of our state.

In addition, it is hoped that in drawing investors to the state for the purpose of utilizing our Limited Liability Company Act as a vehicle for investment in other states, such investors will also use the device as an investment entity in our state, thus providing increased work for real estate personnel, title companies, and all those persons who assist in transactions concerning real estate. In addition, it will be necessary for each limited liability company to establish and maintain a registered agent in the state and it will be necessary for the state to employ a number of additional persons to file and administer the limited liability companies.

The provisions of the act enable the persons forming a limited liability company to provide for management of the limited liability company either by the members or by a manager or managers elected by the members of the limited liability company. The voting power of the members is to be in proportion to their investment in the capital of the company. As with a corporation, the liability of the limited liability

company is to be limited to assets of the company. A member would have a liability not to exceed his contribution to the company or any amount which he is committed to contribute but has not as yet contributed. Why would this vehicle be used rather than a limited partnership? Because it combines the attractive characteristics of a corporation with the attractive characteristics of a partnership.

It is hoped that in submitting a request for a private ruling from the Internal Revenue Service of the United States Treasury Department, a limited liability company could obtain partnership classification for tax purposes.

There are four characteristics in distinguishing between partnership classification and classification and taxation as an association or corporation for purposes of the Internal Revenue Code. These are: (1) centralization of management; (2) continuity of life; (3) free transferability of interests; and (4) limited liability.

In order to be taxed as an association, an entity must have more corporate characteristics than partnership characteristics. A similar problem with regard to taxation is faced by the limited partnership vehicle which would often request advanced revenue rulings to make the limited partnership attractive to an investor.

As drafted, the limited liability company obviously would always have limited liability.

It is expected that the Internal Revenue Service would rule favorably on the continuity of life characteristic because of provision 10.50.180 which states that a limited liability company shall be dissolved upon the death, retirement, resignation, expulsion, bankruptcy, dissolution of a member or occurrence of any other event which terminates the continued membership of a member in the limited liability company, unless the business of the limited liability company is continued by the consent of all the remaining members thereof. Thus, without consent of all the remaining members, the limited liability company would be dissolved upon one of the stated events.

Free transferability of interests is treated in Section 10.50.170. This section provides that a member may always transfer his interest in the limited liability company, but unless unanimous approval is obtained from the other members, the member transferring an interest, can transfer merely the profit and loss interest and not a right to share in the management of the limited liability company.

As to the characteristic of centralization of management, the provisions of the proposed legislation enable the members of the limited liability company to choose whether the limited liability company will be governed by themselves as members or by a manager or management elected by them. If the

members choose to retain management, the limited liability company would also lack the corporate characteristic of centralization of management.

Thus, it can be seen that at least two and possibly three of the corporate characteristics may be lacking in the classification of the limited liability company as a partnership or as an association for the purposes of the Internal Revenue Code.

In conclusion, a limited liability company offers the investor a business entity which combines the attractive elements of both a partnership and a corporation. It combines the limited liability offered to shareholders of a corporation with the tax treatment of a partnership.

The possibilities of increased revenue to the state have been set forth and it appears that increased revenues in excess of one million dollars may be obtained with very little increased expense incurred.

CORPORATION V. PARTNERSHIP V. LIMITED LIABILITY COMPANY

A. NON-TAX CONSIDERATIONS

	CORPORATION	PARTNERSHIP	LIMITED LIABILITY COMPANY
LIFE	Perpetual in most cases.	Agreed term, or life of any partner.	Agreed. Not to exceed 30 years.
ENTITY	Separate legal person.	Not a separate entity from individual partner.	Separate legal entity.
LIABILITY	No individual liability.	General partner individually liable for all obligations. Limited partner usually liable to the amount of capital contributed.	No individual liability.
TRANSFER OF INTEREST	In absence of restrictions interest may be sold to strangers.	New partnership agreement usually required.	May be transferred; however, if all other members do not approve of the proposed transfer by unanimous written consent, the transferee has no right to participate in the management and affairs of the company or to become a member, but is entitled only to receive his share of the profit or return of contributions.
CAPITAL	Capital may be enlisted by sale of stock.	New capital secured only by loans, increase in membership or new contributions by existing partners.	Capital is contributed in money or property at inception or during the course of operation as set out in the Articles of Organization.
BUSINESS ACTION	Action authorized by specified percentage of directors and/or stockholders.	Unanimity of partners usually required.	Action authorized by majority in interest of the members.

	CORPORATION	PARTNERSHIP	LIMITED LIABILITY COMPANY
CREDIT CONSIDERATIONS	The corporation possesses credit ability apart from stock membership. Certificates of stock may be used as collateral.	Credit is coincidental with membership and partners assume joint and several responsibility. Interests in partnerships are not ordinarily accepted as basis for loan or credit.	Credit will be extended to the company on the strength of its contributed or to-be-contributed capital.
MANAGEMENT	Shareholders may invest without participation in management.	All general partners involved in management responsibility	Management of the company is in the members unless management by a manager or managers to be elected by the members is provided in the Articles of Organization.
FLEXIBILITY	A corporation operates within its corporate franchise granted by the state or states in which it is authorized to do business.	A partnership is a contractural relationship which may be altered by unanimous agreement of the partners.	Flexibility is perhaps the Limited Liability Company's strongest point The Articles of Organization will contain a minimum of restrictions and the working rules of the company may be drafted in the form of an operating agreement.
B. TAX FACTORS			
TAX BURDEN	As a separate legal personality a corporation is subject to taxation, in addition to the taxation of the income received as dividends by its members. Electing "Small Business Corporation". (1) Each shareholder's proportionate share of the corporation's undistributed taxable income is included in the gross income of the shareholder. The corporation pays no tax thereon. This substantially parallels the taxation of a partner's income from the partnership.	Each partner is taxed on his proportionate share of income whether distributed or not.	Private revenue ruling will be requested of the Internal Revenue Service requesting that the company be classified as a partnership for federal tax purposes.As drafted the Limited Liability Company will lack at least two and perhaps three of the characteristics of a corporation; the third centralization of management, will be lacking if management is reserved to the members.

	CORPORATION	PARTNERSHIP	LIMITED LIABILITY COMPANY
TAX CONCERN	In close corporations, gross corporate income is reduced by reasonable salaries paid to officer-stockholders. Accumulation of profits may be made up to at least $150,000 or to such larger extent as not to constitute avoidance of surtax by the stockholders and an unreasonable accumulation in terms of the requirements of business. Corporation taxes, plus individual taxes on the compensation for services or dividends, represent the tax burden of the corporate investment, as against the individual tax paid by partners. Electing "Small Business Corporation." Undistributed taxable income of an electing corporation is taxable proportionately to each shareholder. Subsequent distributions out of this income to the shareholders are tax free. This substantially parallels the taxation of a partner's income from the partnership.	All earnings and profits are taxable to the individual partner, unaffected by accumulations of earnings However, once so taxed, thereafter any distributions of these earnings are tax exempt to the individual partner.	All earnings and taxes are taxable to the members whether distributed or not. It is contemplated that the distribution rules and basis rules now applicable to the partnership interest will also be applicable to a limited liability company.
PENSION TRUST	Corporate contributions to a pension trust, within the amount allowed by law are deductible by the corporation. Stockholder-employees may be covered to same extent as other	Members of a partnership are not employees and are not proper beneficiaries under an exempt Pension Trust. However, under the Self-Employed Individuals Tax Retirement Act of 1962,	Unknown but it is suggested that the rules now applicable to a Subchapter S corporation which impose the limits of the Keogh Plan will also be applicable.

	CORPORATION	PARTNERSHIP	LIMITED LIABILITY COMPANY
	employees, so long as there is no discrimination in favor of such stockholders. Electing "Small Business Corporation". An electing corporation's contributions to a pension trust, within the amount allowed by law, are deductible by the corporation from its taxable income.	partners who own more than 10% of the capital or profit interest in the partnership may, deduct the full amount of their contribution to a pension plan up to $7,500.	
SOCIAL SECURITY TAX	Compensation paid to stockholding officers and employees is subject to Social Security Taxes. Electing "Small Business Corporation". Compensation paid to stockholding Officers and employees is subject to Social Security Taxes.	Partners do not pay Social Security Taxes upon their salaries from the partnership. However, they are required to pay the tax on self-employment income.	Compensation for services paid to employee, whether member or not, subject to social security tax. Distribution of profits to members would not be.
ASSIGNABILITY OF INTEREST OR INCOME	An unqualified transfer of stock ordinarily requiring no other person's consent, will entitle transferee to dividends or distributions Electing "Small Business Corporation". Transferee is entitled to dividends and distributions, but the stock must be transferred to an individual or estate and the transferee must consent to the continuation of the "tax option" status.	Any assignment of interest requires consent of the other partners and may create a new partnership.	A member's interest in a Limited Liability Company may be transferred (see page 1). Income from date of transfer taxed to transferee. May be capital gain to transferor on transfer of his interest.

	CORPORATION	PARTNERSHIP	LIMITED LIABILITY COMPANY
COMMUNITY PROPERTY STATES	Dividends from investments made from community property become community property. Electing "Small Business Corporation". Dividends from investments made from community property become community property.	Whether income is community or separate income depends upon the law of the state of domicile.	Same as partnership, with the results depending on the community property laws in the several states. Alaska does not have community property.
DUAL MEMBERSHIPS	Because it would be extending its credit, liability and the powers of the Board of Directors beyond legal scope, a corporation cannot be a direct member of a partnership in some states. Can in Alaska. Electing "Small Business Corporation". Stock may not be held by either a partnership or another corporation.	A partnership may own some or all of the stock of a corporation and so function in two capacities.	A Limited Liability Company enjoys flexibility in this area and may be owned by other entities or individuals and participate in other entities and business enterprises.

(1) An electing "small business corporation" is a domestic corporation which does not have more than 10 shareholders and which otherwise comes within the requirements of Subchapter "S" of the Internal Revenue Code, and whose shareholders elect to include in their personal income the current taxable income of the corporation.

SB 376

"An Act relating to the disclosure of ownership interests."

COMMITTEE REPORT

5/13/75

HOUSE

Mr. Speaker: Date _____

The Committee on COMMERCE has had CSSB 376

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

Section by Section Analysis
of the
Commerce Committee Substitute for Senate Bill No. 376

Section 1 - requires anyone transferring real property to a nonresident alien, or anyone transferring property for the benefit of a nonresident alien, to put a statement containing the name and address of the nonresident alien in the deed.

Section 8 - requires the clerk of the court where deeds are recorded to file with the commissioner of commerce a copy of each deed that contains such a statement.

Section 2 - requires corporations doing business in Alaska to disclose the ownership interest of nonresident aliens prior to any corporate reorganization.

Section 3 - requires the articles of incorporation to contain a statement of the name and address of each nonresident alien affiliate.

Section 4 - requires the application for a certificate of authority to do business to contain a statement of the name and address of each nonresident alien owner and the extent of the ownership interest.

Section 5 - requires the corporation to file the same information in its annual report.

Section 6 - definitions.

Section 7 - allows the body of federal law to apply to the new definitions of this Act so there will be precedent if it is attacked in a legal proceeding.

SB 436

OFFICE OF THE MAYOR
BOX 400
ANCHORAGE ALASKA 99510

GEORGE M. SULLIVAN
MAYOR

February 19, 1976

Representative Bob Bradley
Chairman
House Commerce Committee
Pouch V
Juneau, Alaska 99801

Dear Bob Representative Bradley:

The House Commerce Committee now has before it Senate Bill 436 which provides that the Commissioner of Commerce and Economic Development may make grants to municipalities for creation or operation of municipally owned or operated tourist centers.

As Mayor of the Municipality of Anchorage, I strongly support the passage of this bill and feel it would contribute substantially to the growth and economic development of our area.

The support of your Committee would be sincerely appreciated by the Municipality of Anchorage.

Sincerely,

George M. Sullivan
Mayor

GMS:lc

SB 438

"An Act relating to franchising agreements involving gasoline refiners, distributors and dealers; and providing for an effective date."

COMMITTEE REPORT

2/10/76 HOUSE JUDICIARY

Mr. Speaker: Date 4/13/76

The Committee on COMMERCE has had SB 438 Am under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

(X) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

STATEMENT OF J. R. SANDERS

ON BEHALF OF

STANDARD OIL COMPANY OF CALIFORNIA

ON SENATE BILL 438

"ALASKA GASOLINE PRODUCTS FRANCHISE ACT"

BEFORE THE HOUSE OF THE STATE OF ALASKA

Mr. Chairman and Members of the Committee:

My name is John Sanders. I am Division Manager for Standard Oil Company of California in its Alaska Division. I am responsible for the sale of its products throughout the State of Alaska. I appreciate the opportunity to present my Company's views on this legislation after which I will try to answer any questions you may have.

As I understand it, the intent of this proposed legislation is to guarantee service station dealers fair and equitable treatment by their petroleum suppliers. I don't think it would do that. In fact, in my opinion, it would merely provide a shield for ineffective dealers and would be to the detriment of consumers and good dealers alike. At the onset, we believe that additional legislation to protect the service station dealer is unnecessary. Furthermore, we believe the importance of an efficient and successful independent dealer organization cannot be overemphasized. It is through such independent dealers that the vast majority of service station sales are made. In the State of Alaska, Standard Oil Company of California supplies products to 42 conventional dealer stations plus about 112 car washes, garages, new car dealerships, and other miscellaneous accounts, all of which are operated by independent businessmen. With respect to dealer stations, (those being the 42 conventional stations) we presently provide, at our expense, all the marketing research,

site location, land acquisition, facility construction, fixed equipment, tankage and signs. We then lease the completed facility and the site to a dealer with the dealer being responsible only for such things as operating tools, movable equipment, and inventory. There is no "franchise fee" for the dealer to pay Standard. This arrangement affords the dealer entry into the service station business at a comparatively modest initial investment, in most instances between $15-25,000. On the other hand, in recent years, our average investment for a new service station has been approximately $500,000 including real property and facilities.

Our enormous investment and our complete marketing reliance upon the service station dealer demonstrate a very fundamental point about us and Chevron dealers: We need each other and we must assure the dealer a reasonable opportunity for success if we are both to succeed.

Our forms of dealer supply contract and dealer lease are available to the committee if it wishes to see them. We think that these agreements testify to our good faith in providing to Chevron Dealers on commercially fair terms a very valuable place of business in which the dealer has a reasonable opportunity to make a good living. These agreements are for a five year term and, after a brief initial trial period, they can be terminated by us during the term only for good cause. Our

relationship with dealers is both fair and reasonable and is founded upon the mutual interest of both parties. From the very onset we have been aware of the antitrust laws that govern our relationship with Chevron Dealers. Accordingly, Chevron Dealers are entirely free to price their products and services and to purchase also from other suppliers as they may decide. In other words, we recognize and respect the dealer as an independent businessman. If we were to change our policy and seek improperly to control a dealer's pricing or purchasing discretion we would surely be subject to the formiable sanctions of the antitrust laws, including treble damages. We therefore believe that the commercial interest of suppliers and the dealers who sell their products are mutual interests. These interests, together with the severe sanctions of the existing antitrust laws, are we believe entirely adequate to protect service station dealers and hence no further legislation is necessary. But, even if additional legislation were needed, Senate Bill 438 would be ill advised for the following principal reasons:

1. Section 45.50.810(a)(6)

This section would prohibit us from requiring Chevron Dealers to buy any quantity of our products unless we proved that such purchase obligations are "reasonably necessary for lawful purposes justified on business grounds and do not substantially affect competition".

This provision is unnecessary since the antitrust laws provide ample protection to dealers by forbidding any agreements which would require them to buy all or substantially all of their inventory requirements from a particular supplier. Accordingly a Chevron Dealer is merely required by contract to buy from us only such quantities of our products as may be necessary to satisfy customer demand for our products at his station. He may also handle any competitive products that he desires. Indeed, we find that most of our dealers do in fact choose to handle substantial quantities of competitive petroleum products and tires, batteries and accessories.

In addition, this section is wholly impractical because of the uncertainty of the language measuring the legality of the purchasing obligation. When are such obligations "reasonably necessary for lawful purposes justified on business grounds?" And when do they not "substantially affect competition?" The bill gives no guidance on this. Even entirely reasonable and otherwise lawful purchase obligations may affect competition as any aggregation of sales or purchases would, without in any way lessening or impairing competition. Suppliers cannot be expected to make the very substantial investments required for modern service stations if they do not have reasonable assurance that their products will be at least offered for sale at such stations.

Also, depending upon a court's interpretation of the wording in this section, it may be in conflict with current State and

Federal Trademark Laws. If this section were to allow gasoline purchased by the dealer from another supplier to be sold through pumps marked with Standard's brands, then it appears obvious to us that it is in violation of applicable trademark laws.

This would obviously provide a great disservice to consumers who think they are buying Standard's products when, in fact, they may be sold someone else's product of lesser quality and performance characteristics. I think the Department of Weights and Measures would take a dim view of that situation.

3. Section 45.50.810 (d)

This section provides that no refiner or distributor may charge different prices to dealers unless they are based upon the quantity purchased or transportation costs. Such a provision is plainly anticompetitive.

The Federal Robinson-Patman Act does not forbid all price differences between customers, but only those that threaten substantial anticompetitive effects. Moreover, in order to avoid the anticompetitive effects of rigid price uniformity, the Federal statute provides that a lower price given to one customer, but not to others, is lawful if granted "in good faith to meet an equally low price of a competitor" (15 USC § 13(a)(b)). The purpose of this provision in the Federal statute was to give a supplier sufficient flexibility to respond to differing competitive conditions, when and where they occur. For example, a gasoline price war may break out in one city

within the State but not elsewhere. To assist its dealers to remain competitive in the area of the price war, Standard under present law would be able to lower its price to them without lowering it Statewide. If such a price reduction had to be extended Statewide, it probably would not be made at all. This feature of the bill would provide a strong upward pressure on pricing to the detriment of competition and the motoring public.

Thus, this provision is anticompetitive since it unduly limits the very price competition that is the principal goal of both the Alaskan and Federal antitrust legislation.

Consider also the not uncommon situation in Alaska where a service station dealer himself has made the investment in the station. That investment will normally induce suppliers to offer an investment allowance on gasoline to reflect the fact that the dealer and not the supplier in this instance is furnishing the station. In these circumstances, a competing supplier, such as Standard, should be able to respond to this competitive situation by offering a comparable allowance to obtain or retain this dealer's business. But here too, if the same price must be offered to all dealers throughout the State, regardless of the commercial circumstances, it is probable that such an allowance for the dealer's investment would not be offered. Again, the result of this section of the bill would clearly be to reduce competition and encourage price rigidity. It

would be anomalous for Alaska, having recently passed general antitrust legislation, now to pass a law which would encourage uniform pricing and discourage price competition.

3. Section 45.50.810 (a)(8)

This section would forbid us to "unreasonably disapprove the transfer or assignment of a franchise by a dealer to a qualified transferee or assignee."

This section constitutes a totally unreasonable and arbitrary interference with our property rights. Having made a $500,000 investment, and in light of a dealer's relatively small investment, it is only proper and just that we have the right to select a candidate whom we feel best qualified to operate a first class service station.

The consumer stands to lose the most from such a provision. If the dealer is permitted to assign his lease, there is the inevitable question of personal motivation in making the assignment. At Standard our motivation is simply to select dealers who are best qualified to manage the station and who are committed to providing the service to which we believe the motoring public is entitled.

4. Section 45.50.820

This section would require a supplier, upon termination or non-renewal of the franchise, to repurchase certain tangible assets from the dealer and, in certain circumstances, to compensate the dealer for "goodwill". We at Standard are opposed

to the payment of any sum of money for alleged dealer goodwill.

There is nothing in the nature of goodwill that is transferable from a dealer to his supplier or to a successor dealer where the station is owned by the supplying company. If a dealer's business is successful because the station is well located, and has excellent facilities, that portion of the success properly remains with the supplier. In this connection, all dealers, new or old, receive the benefit of large sums of money we have spent on advertising to promote public acceptance of our brands of products at our retail outlets. They also receive the benefit of the large number of credit cards we have solicited and the millions of dollars in accounts receivable we carry for the dealers. These things are in addition to the service station facility itself, which we furnish to the dealer and which currently costs us on an average about $500,000 per unit. None of these sources of "goodwill" attributable to the station can be transferred by the dealer to us or to his successor.

Likewise, that portion of the dealer's success attributable to his personal skills, personality or the relationship he established with his customers belongs to him and is taken with him when he leaves and cannot be effectively transferred to us or to a succeeding dealer.

Thus it is a misnomer to say that the departing dealer has any "goodwill" that is transferable either to the supplier or to the new dealer.

5. Section 45.50.810 (a)(3)

This section would prohibit us from requiring a dealer to operate his station for more than 12 consecutive hours per day or more than six days per week.

It is safe to say that this provision would effectively eliminate gasoline availability on Sundays and between the hours of 10:00 p.m. and 6:00 a.m. This would be detrimental to the consumer and to the economy of the State of Alaska. Gasoline would be unavailable for emergency vehicles for such agencies as the police department; local travelers would be inconvenienced and tourism would be discouraged. Additionally, this provision completely disregards operating hour requirements imposed by many lessors in their ground leases to us; and while it does seem to recognize that longer hours may be required by the state or the federal government it does not recognize that as a condition to zoning permits, we may be required by municipal or borough authorities to provide for longer hours in certain locations.

6. Section 45.50.810 (a)(5)

This section provides that it would be a violation of law for us to sell, rent or offer to sell to a dealer any product or service for more than a "fair and reasonable" price.

This section would in effect subject the pricing of our service station products to a kind of public utility control with the courts serving as the regulatory agency. Apart from governmental price control during periods of acute economic distress,

at which rare times control could be vested in an administrative agency such as the Federal Energy Administration, it is neither desirable nor necessary to supplant ordinary market forces as proper regulators of prices and rents. Competition establishes fair market prices which balance all the effects of supply, demand and necessary return on capital. On the other hand, when prices are fixed at levels different from those established by the fair market this balance is inevitably upset and economic dislocations result, all to the public's disadvantage.

7. Section 45.50.810 (a)(10)

Under this section it would be a violation for a supplier to fail to deal with a dealer in "good faith". That phrase is so vague and generalized that it would be impossible to administer or comply with. No standards are stated as to how good faith is to be measured. We expect that every difference of opinion or commercial judgment would become a controversy over good faith. Such a provision would inescapably provoke endless dispute and litigation.

8. Section 45.50.810 (b)

This section would require that a refiner or distributor give 90 days notice prior to terminating or failing to renew a franchise except where such termination of failure to renew is due to the voluntary abandonment of the station by the dealer; or where the dealer is convicted of an indictable offense

directly related to the business. This requirement is not needed for the protection of the franchise and is commercially unfair and impracticable. Notice of intention to terminate for breach of contract should generally afford the dealer an adequate opportunity to cure the breach and avoid termination, as our Chevron dealer contracts provide.

But the 90 days prior notice is unrealistically long in many situations other than those two recognized in the bill. Consider for instance the case of a dealer engaged in fraudulent and deceptive sales practices against the motoring public. In this example, there is normally ample evidence of repeated illegal practices such as the deliberate damaging of tires and/or fan belts. Prompt termination was necessary in another situation, we recently found, as a result of a fire caused by the dealer's improper use of a welding torch in violation of city ordinances and contrary to our instructions against the practice. Obviously to permit such situations to continue for a minimum of 90 days would be to the detriment of consumers and good dealers alike.

In addition to that kind of illegal conduct by the dealer, there are numerous other situations in which 90 days prior notice would be wholly unrealistic. For example: (a) The Dealer's death or mental or physical incapacity to operate the station and (b) refusal by the deal r to pay debts owed to his supplier or the dealer's bankruptcy or insolvency.

Any of these cases would prevent us from regaining possession of our investment for 90 days and would to that extent arbitrarily deprive us of our property and would require enormous efforts by a new dealer to rebuild the business that has been needlessly impaired by prolonged neglect or idleness.

9. Section 45.50.810 (c)

This section deals with the causes for termination and provides that no refiner or distributor may terminate, cancel, or fail to renew a dealer lease without good cause which is defined as including: "The failure of a franchisee to comply with the lawful material provisions of a franchise between distributor or refiner and the franchisee/dealer..."

What provisions in dealer agreements would meet these criteria is a speculative matter at best; and different courts or juries may be expected to have conflicting views of the same contractual provisions. Thus, a particular term or condition in the lease or supply contract may or may not be enforceable based upon the interpretation of a judge or jury without experience in such commerce. Moreover, this bill would give a judge or jury no instructive guidance for making the required determinations. We understand that some service station dealers are supplied petroleum products pursuant only to oral agreements; others, like our Chevron dealers, are supplied under quite detailed written agreements designed to clarify the continuing business relationship for the benefit of both parties. However, in addition to the fundamental obligations to sell, to buy and

to pay for products, there are other commercially important provisions such as those relating to the maintenance of a very expensive station. Are these to be deemed non-material by a judge or jury unfamiliar with service station business practices?

And, while the bill provides for some specific situations to be construed as good cause for termination, cancellation or non-renewal, it fails to recognize many others, such as:

--- a dealer's death or mental or physical incapacity to operate the station;

--- refusal by the dealer to pay debts owed to his supplier;

--- adulteration, commingling, mislabeling or misbranding gasoline;

--- trademark violation;

--- repeated consumer complaints concerning the dealers; and

--- the supplier's decision to materially alter the facilities to meet changing consumer needs.

Furthermore, it is unclear whether the requirement to give the franchisee a reasonable opportunity to cure a default is applicable only where the breach is curable, such as the failure to pay for goods delivered. Surely, for example, where a dealer is convicted for fraudulent or deceptive sales practices, or becomes bankrupt or abandons the station, the default is essentially non-curable.

Moreover, subpart (4) would, in effect, require that the terms of our agreements be essentially the same as those offered other dealers in similar retail outlets.

Surely, there is no sound basis for requiring every franchise agreement to be the same as that offered to every franchise dealer. The term "similar" retail outlets does not cure this deficiency since the word "similar" is undefined and like other terms in the bill would be subject to varying and conflicting interpretations.

Rental terms vary from dealer to dealer quite properly; there are differing types and sizes of service stations and differing locations. Also, when we lease station sites from property owners, they require differing ground rents. In addition, there are differences in the costs incurred in supplying products to various dealers.

In closing, I would restate that in recent years our average investment for a new service station has been approximately $500,000. This figure is probably typical of the recent expenditures made by similar suppliers in this industry. While we cannot speak for others, we seriously doubt that we could continue making these kinds of investments not knowing what our contracts would mean, and, in addition, be subject to the

other restrictive conditions set forth in this bill. It is difficult to foresee who would make such investments or who would maintain the current level of availability for these services which the public has come to expect.

Nowhere else can a dealer obtain a half million dollar income producing business investment with such minimal risk. Nowhere else does the consumer enjoy the level of assurance of product quality, service skills, competitive pricing, and image achievable through our system as it presently operates. Legislation which removes the incentives for the investments required to construct service stations today will prove to be counter productive working against the common goals of both the consumer and the dealer.

I hope the views I have expressed will be helpful to you. I respectfully urge you to consider them and to reject this bill. If you have any questions, I would be pleased to respond.

POSITION PAPER

PROVISIONS TO BE CONSIDERED IN ANY DEALER DAY IN COURT LEGISLATION

Although there is no demonstrated need for dealer day in court legislation, any such legislation which is considered should be designed to accomplish the following:

1) Provide for disclosure by the supplier of essential facts regarding its relationship with prospective dealers to the extent that such disclosure is necessary to prevent fraud in the inception of the contract and to furnish the dealer with a reasonable basis for any investment decision he is required to make.

2) Protect the dealer from arbitrary or unreasonable cancellation by his supplier (refiner or jobber) while maintaining in the supplier a reasonable right to terminate marketing agreements upon written notice (as provided in the agreement) for reasons such as death, bankruptcy or insolvency of the dealer, abandonment of the station, criminal misconduct or consumer fraud or failure to pay amounts due.

3) Provide suppliers reasonable rights of nonrenewal with

adequate notice for such situations are:

a) Sale of the property by the supplier or the relinquishment of his leasehold interest if it is owned by a third party.

b) A decision to rebuild or materially alter or add to the facilities to meet changing consumer needs.

c) Use of the premises for purposes other than the sale of motor fuels.

d) Repeated consumer complaints concerning the dealer.

e) Inability to agree on reasonable terms and conditions of the renewal agreement.

4) Provide that the supplier, in event of termination, will repurchase from the dealer at current wholesale prices, branded merchandise originally purchased from the supplier; provided however, that such goods are in merchantable condition, that the dealer's title to them is free and clear and that the proceeds of any such repurchase will be applied first to any indebtedness of the dealer to the supplier.

5) Apply to only those marketing agreements entered into after effective date of the legislation.

January 13 1975

POSITION PAPER

STATE GASOLINE DEALER DAY IN COURT LEGISLATION

INTRODUCTION

Gasoline "dealer day in court" legislation is the application of franchise type laws to automotive gasoline marketing. Historically, gasoline suppliers (refiners and jobbers) have not regarded their contractual relationships with dealers as franchises because of the dissimilarity with the typical franchise arrangement. Franchise fees are not required, and highly specified duties and responsibilities of the dealer are not detailed in the sales contract. Gasoline dealer day in court legislation is of extreme concern to the petroleum industry because it impairs the ability of gasoline suppliers to manage their marketing investments by unreasonably restricting rights of termination or nonrenewal of contracts with dealers.

NEGATIVE EFFECTS OF DEALER DAY IN COURT LEGISLATION

Anti-Consumer Effects

The usual dealer day in court legislation tends to perpetuate all existing branded sales contracts between suppliers (refiners and jobbers) and reseller customers (dealers and jobbers so long as minimum standards are met, regardless of the agreed time period

in the contract. This results in a disservice to the motoring public which is entitled to higher, not lower standards of operation. Further, legislation of this type would not adequately protect consumers against the limited number of unscrupulous service station operators who provide shoddy service, maintain poor standards of cleanliness, oversell, mistreat or defraud consumers.

Anti-Dealer Effects

One of the strongest assets that a successful dealer has is in the integrity of the brand and the reputation of the supplier whose products he sells. Dealer day in court legislation actually works against the interests of effective and efficient dealers who may see the value of their business diminished by the perpetuation of unsatisfactory dealers selling under the same brand.

Anti-Competitive Effects

Dealer day in court legislation is anti-competitive because it suppresses competition for available service station sites and because it tends to exclude new entries into the service station business which historically has provided an opportunity for the entrepreneur with limited capital resources. This exclusion is especially unfortunate when considered in the light of the country's efforts to increase the number of minority small businessmen. In an effort to protect a small number of ineffective dealers from competition, legislation of this type will deny business opportunities to many able and

deserving potential entrepreneurs.

Anti-Supplier Effects

Dealer day in court legislation is unfair to suppliers as it diminishes the value of their capital investments in service stations and erodes the value of their trademarks. By giving all dealers regardless of individual merit, virtual perpetual tenure, this type of legislation unreasonably abridges contractual rights and may well violate the constitutional rights of suppliers as property owners.

DEALER DAY IN COURT LEGISLATION UNNECESSARY

There is a lack of basic need for dealer day in court legislation in view of the well developed body of federal and state laws already in effect which regulates and prevents abuse in the usual gasoline dealer-supplier agreements.

For example, the antitrust laws make it illegal for a petroleum supplier, either by contract or coercion or threats of termination to require a dealer to purchase the supplier's brand of TBA in order to keep his dealership. These same laws require clear dealer freedom in all product pricing and in the selection and purchasing of allied products. A cancellation or nonrenewal of a dealer agreement because of the dealer's noncompliance with the supplier's desires in these areas is prohibited.

In the area of fraud, misrepresentations and deceptive practices, the FTC, under Section 5 of the Federal Trade Commission Act,

vigorously prosecutes fradulent and deceptive practices in commerce. State laws also operate in this area.

The supplier-dealer relationship is contractual. Its formation and interpretation are governed by general contract law, of which the cornerstones are voluntary agreement and fair dealing between the parties. Additionally, there are the judicial remedies of recission and damages provided for common law fraud, deceit or misrepresentation.

January [illegible], 1975

PROPOSED AMENDMENTS TO [redacted] SENATE BILL [redacted]

(Language in Brackets Indicates Deletions
and
Language With Underscoring Indicates Additions)

A BILL FOR AN ACT

Relating to retail service stations /; and declaring an emergency/.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 to /12/ 11 of this Act are added to and made a part of ORS chapter 646.

DEFINITIONS

SECTION 2. As used in sections 2 to /13/ 11 of this 1975 Act, unless the context otherwise requires:

(1) "Dealer" means /a/ any person engaged primarily in the retail sale of gasoline /through a retail outlet owned or leased by the person and operated by the person/ purchased from a supplier under the terms of a contractual agreement.

(2) "/Distributor/ Supplier" means any person /or corporation other than a refiner/ engaged in the sale, /assignment/ consignment or distribution of gasoline to /four or more/ a dealer /operated retail outlets/ under the terms of a contractual agreement.

(3) "/Franchise/ Contractual agreement" means an oral or written contract or agreement or series of agreements, either express or implied, /in which the dealer is required directly or indirectly to purchase 50 percent or more of his supply of gasoline from a distributor or refiner/ between a dealer and a supplier under which such dealer is granted authority to use a trademark, trade name, service mark or other identifying symbol or name owned or controlled by the supplier in connection with the sale of gasoline of such supplier, and /in/ under which the dealer

is granted authority to occupy premises owned, leased or in any way controlled /, directly or indirectly,/ by the /refiner or distributor/ supplier for the purpose of allowing such dealer to operate a retail outlet. Any other agreement or contract between a dealer and a supplier which is ancillary to the grant of authority to use a trademark, trade name, service mark, or other identifying symbol or name of a supplier in connection with the sale of gasoline of such supplier or to real estate premises covered by such other agreement or contract shall not be included within the definition of "contractual agreement".

(4) "/Franchisee-dealer" means a dealer who is a party to a franchise/ Retail sale of gasoline" means the sale of gasoline for consumption and not for resale at a retail outlet in this state serving the general motoring public.

(5) "Gasoline" means /all products commonly or commercially known or sold as gasoline/ automotive gasoline used as motor fuel in motor vehicles.

(6) /"Refiner" means a company, corporation or individual who owns or controls through a substantially owned subsidiary, partnership, or joint venture, a refinery used for the production of gasoline, diesel or other motor vehicle fuels./ "Retail outlet" means a gasoline service at which a dealer is primarily engaged in the retail sale of gasoline, for purposes other than resale, to the general motoring public.

(7) "Engaged primarily in the retail sale of gasoline" means that fifty percent of the annual gross revenue of the dealer is derived from the retail sale of gasoline.

(8) "Good faith" means the duty of a dealer and a supplier to act at all times in a fair and equitable manner toward the other in the

performance of or compliance with, or in the demanding performance of or compliance with, the terms or provisions of the contractual agreement so as to guarantee each party freedom from coercion, intimidation, or threats of coercion or intimidation from the other party; provided that recommendation, suggestion, endorsement, exposition, persuasion, counseling, urging, or argument shall not constitute a lack of good faith; and provided further that the imposition of standards of quality and service reasonably related to the contractual agreement and the public good will behind the supplier's trademarks shall not constitute a lack of good faith.

DISCLOSURES

SECTION 3. Prior to entry into a /franchise/ contractual agreement, a /refiner or distributor/ supplier shall disclose to the dealer /facts which would reasonably be considered material to the dealer's decision to enter into the franchise. Such facts shall include, but are not limited to/ , which disclosure may be within the terms and conditions of a written contractual agreement, or separately, the following information:

(1) /Ownership/ The owner of the real property /of/ on which the retail outlet is located.

(2) If the real property is not owned by /a refiner or distributor/ the supplier, the nature of the relationship between the real property owner and the /refiner or distributor/ supplier and, if applicable, the /length/ term of the underlying lease of real property.

(3) /Last known/ The name and addresses of the dealer or dealers operating the retail outlet for the /last/ immediately preceding /five/

three years or such shorter period during which such dealer or dealers were engaged primarily in the retail sale of gasoline at the retail outlet, to the extent known to and contained in the existing records of the supplier.

(4) The gasoline gallonage history of the /station/ retail outlet for the /last/ immediately preceding /five/ three years or such shorter period during which a dealer or dealers engaged primarily in the retail sale of gasoline at such retail outlet, to the extent known to and contained in the existing records of the supplier.

/(5) Any sales goals or quotas the refiners or distributors intend to apply to the station./

(/6/5) /Nearest/ The address of the nearest /gasoline/ retail outlet owned, leased, controlled or operated by /refiner or distributor/ the supplier within a two (2) mile radius of the premises at the time the contractual agreement is entered into, and any finally approved plans /distributor or refiner/ the supplier has to open new retail outlets /within the trade area of the/ closer than said nearest retail outlet during the term of the contractual agreement.

(/7/6) Any finally approved plans the /refiner or distributor/ supplier has for /the future of/ the /subject/ retail outlet during the term of the contractual agreement which will significantly and detrimentally alter the improvements or equipment, or the land upon which the retail outlet is located.

PROHIBITED PRACTICES

SECTION 4. No person shall, directly or indirectly, or through his officers, agents, employees or otherwise:

(1) Require the /franchisee/ dealer at the time of entering into the franchise agreement to assent to release, assignment, novation,

waiver or estoppel which would relieve any person from liability imposed by this 1975 Act.

(2) Require a /the franchisee-/ dealer to agree to waive his right to a jury trial or any right of counterclaim he may have.

/(3) Require the franchisee-dealer to keep his retail outlet open for business more than 16 consecutive hours per day or more than six days a week, except this subsection shall not be construed to prevent any retail outlet from being open when required to be open to conform to any state or federal law or regulation./

(/4/ 3) Restrict or inhibit, directly or indirectly, the right of free association for any lawful purpose of a /the franchisee-/ dealer.

/(5) Sell, rent or offer to sell to a franchisee-leader any product or service for more than a fair and reasonable price./

(/6/ 4) Require a /franchisee-/ dealer to purchase or otherwise lease goods or services of a /refiner or distributor or from an approved source of supply unless, and to the extent that, the refiner or distributor satisfies the burden of proving that such restricted purchasing agreements are reasonably necessary for lawful purposes justified on business grounds and do not substantially affect competition. However, this subsection does not apply to the initial inventory of the franchise. In determining whether a requirement to purchase is lawful, the court shall be guided by the decisions of the courts of the United States in interpreting and applying the antitrust laws and the Federal Trade Commission Act of the United States/ supplier where such requirement when imposed would be a violation of any law, rule or regulation of this state or of the United States.

(/7/ 5) Impose unreasonable standards of performance on a /the franchisee-/ dealer, provided that standards reasonably established in

good faith may be imposed by a supplier and shall be, when imposed, adhered to by a dealer.

/(8) Unreasonably disapprove the transfer or assignment of a franchise by a franchisee-dealer to a qualified transferee or assignee./

(/9/ 6 Require a /franchisee-/ dealer to participate financially in the distribution of or to use any premium, coupon, give-away or rebate in the operation of /the/ his business; /except/ provided that a /distributor/ supplier may require a /the franchisee-/ dealer to distribute premiums, coupons or give-aways to customers which are provided without expense to the /franchisee-/ dealer /at the expense of the refiner or distributor/ or where the promotion is self-liquidating; provided, further, that nothing in this section shall prohibit a dealer from voluntarily participating in the distribution of or using any premium, coupon, give-away or rebate in the operation of his business and the dealer may be required to complete any promotion voluntarily undertaken by him.

(/10/ 7) Fail to deal with a /the franchisee-/ dealer or a supplier in good/ fait

NOTICES

SECTION 5. No /refiner or distributor/ supplier shall /, directly or indirectly, through any officer, agent or employee/ terminate /, cancel or fail to renew/ a /franchise/ contractual agreement prior to the expiration date of such agreement without first giving written notice /setting forth all of the reasons for such termination or cancellation or intent not to renew/ to the /franchisee-/ dealer in accordance with the terms of the contractual agreement, or to the dealer at his last known address by certified mail posted at least /90/ 45 days in advance of such termination /, cancellation or failure to renew, except:

(1) Where the alleged grounds are voluntary abandonment by the franchisee-dealer of the franchise relationship, in which event the aforementioned notice may be given five days in advance of such

termination, cancellation or failure to renew; or

(2) Where the alleged grounds are the conviction of the franchisee-dealer in a court of competent jurisdiction of an indictable offense directly related to the business conducted pursuant to the franchise in which event, the termination, cancellation or failure to renew shall be effective immediately upon the delivery of written notice thereof.7 ; provided, however, that if in the light of the circumstances it would not be reasonable to give notice 45 days in advance of such termination, the supplier shall give notice as provided in this section at the earliest date that is reasonably practicable; provided, further, that such termination may occur as specified in the contractual agreement and without regard to the notice provisions of this section where such agreement provides for a shorter notice period in situations included in those set forth in subsection (3) of section 6 of this Act.

TERMINATION, REMEDIES AND DEFENSES

SECTION 6. /No refiner or distributor shall terminate, cancel or fail to renew a franchise without good cause. Good cause includes without limitation:

(1) The failure of a franchisee-dealer to comply with the lawful material provisions of a franchise between distributor or refiner and the franchisee-dealer and to cure such default after being given written notice thereof and a reasonable opportunity to cure such default;

(2) Adjudication of the franchisee-dealer as bankrupt or insolvent or an asignment by the franchisee-dealer for the benefit of creditors or a similar disposition of assets of franchise business or voluntary abandonment by the franchisee-dealer of the franchise business or conviction of or entry of plea of guilty or no contest by the franchisee-dealer to a charge of violating any law relating to any franchise business;

(3) The good faith business decision of franchisor that he no longer resuires a retail outlet at that location for the marketing of gasoline; or

(4) The franchisee-dealer's failure to sign the new agreement of at the time of renewal of the franchise, the distributor or refiner and the franchisee-dealer cannot agree upon new terms and the terms offered by the refiner or distributor do not violate any other sections of this 1975 Act or other laws of the State of Oregon or of the United States and the terms are essentially the same as those offered to other franchisee-dealers in similar retail outlets and do not discrimante against the subject franchise-dealer./

(1) No supplier shall terminate a contractual agreement prior to the expiration date thereof unless the dealer whose contractual agreement is terminated failed to perform or comply with, or failed to act in good faith in performing or complying with, any of the terms or provisions of the contractual agreement, except that a supplier shall be permitted to provide in the contractual agreement for the termination of such agreement without cause during a reasonable trial period, not to exceed one (1) year, where the dealer involved his not been a dealer of the supplier for that period of time at the premises described in the contractual agreement.

(2) If a supplier who has entered into a contractual agreement with a dealer engages in conduct prohibited under subsection (1) of this section, or prohibited by or in violation of any other section of this Act, the dealer may bring an action in any court of competent jurisdiction in this state against such supplier for actual damages sustained or for injunctive relief as may be necessary to prevent or restore rights lost because of the conduct of such supplier. In any

action brought under the provisions of this subsection, the prevailing party shall recover from the losing party all costs incurred, including reasonable attorney and expert witness fees, according to the discretion of the court.

(3) In any suit brought under subsection (2) of this section, there shall be defenses available to the supplier to include the following situations:

(a) Failure of the dealer to perform or comply with, or his failure to act in good faith in the performance or compliance with, any of the terms and provisions of the contractual agreement;

(b) Criminal misconduct, unfair trade practice, or fraud of the dealer in connection with the operation of the business conducted pursuant to the terms and provisions of the contractual agreement; or the conviction of the dealer of any felony;

(c) Bankruptcy or insolvency, death or incapacity of the dealer; provided that such incapacity, whether mental or physical, shall be to such extent that the dealer is unable to perform under the terms and provisions of the contractual agreement as was originally intended when such agreement was entered into by him with the supplier;

(d) Loss by the supplier of the right to use a trademark, trade name, service mark, or other identifying symbol or name covered by the contractual agreement; or loss by the supplier of the right to grant possession of, or the destruction of, all or a substantial part of the premises covered by the contractual agreement; or expropriation, appropriation, condemnation, or other taking, or restriction of the use of the premises covered by a contractual agreement, in whole or in part, pursuant to the power of eminent domain or the regulatory police power of this state; or any similar cause which is beyond the reasonable control of the supplier;

(e) Abandonment by the dealer, or failure by the dealer to operate, the retail outlet located on the premises covered by the contractual agreement;

(f) Failure of the dealer to make any payment due the supplier as provided in the contractual agreement, or otherwise;

(g) Adulteration, commingling, mislabeling or misbranding of gasoline by the dealer; or trademark violations of the dealer, or those under his control against the trademark of the supplier;

(h) Failure of the dealer to comply with federal, state or local laws, ordinances or regulations relevant to the operation of the business conducted pursuant to the contractual agreement;

(i) Execution of a mutual agreement by the dealer and supplier to terminate the contractual agreement;

(j) The occurrence of any circumstance which is specified in the contractual agreement which circumstance is relevant to the operation of the contractual relationship and where termination before the expiration date specified in the contractual agreement is reasonable in light of such circumstance.

REPURCHASE OF GOODS

SECTION 7. In the event /that/ the supplier /refiner or distributor for good cause/ terminates /, cancels or fails to renew a franchise under this 1975 Act, he shall compensate the franchisee-dealer for the fair market value of the franchise including goodwill. Valuation other than goodwill includes the fair market value of a franchisee-dealer's inventory supplies, equipment and furnishings purchased from the refiner or distributor exclusive of personalized materials which have no value to the refiner or distributor and inventory supplies, equipment and furnishings not reasonably required in the conduct of the franchise

business. Such compensation shall be made within 60 days from the date of termination unless it is necessary that a lawsuit be filed under section 10 of this 1975 Act or the franchisee-dealer fails to comply with the provisions of ORS 76.1070. The refiner or distributor may offset against accounts owed by the franchisee-dealer under this section any amount owed by the franchisee-dealer to the refiner or distributor./ a contractual agreement, such supplier shall make or cause to be made a good faith offer to repurchase from the dealer, his heirs, successors or assigns, at the current wholesale prices, any and all merchantable products and merchandise which are undamaged and unadulterated from their original form, purchased by the dealer from such supplier; provided, that such supplier shall have the right to apply the proceeds against any existing indebtedness owed to him by the dealer; and, further provided that such repurchase obligation is conditioned upon there being no other claims or liens by or on behalf of other parties, including creditors and governmental agencies, against such products and merchandise.

/SECTION 8. The Attorney General may bring a suit in the name of the state against any person to restrain or prevent the doing of any act herein prohibited or declared to be unlawful, and the prevailing party may in the discretion of the court recover the costs of such suit including reasonable attorney fees./

/SECTION 9. The provisions of ORS 646.140 to 646.180 with respect to a violation or threatened violation of ORS 646.010 to 646.180 apply equally to a violation or threatened violation of sections 2 to 7 of this 1975 Act./

/SECTION 10. If under section 7 of this 1975 Act, a distributor or refiner has good cause and the distributor or refiner and the

franchisee-dealer cannot agree on the fair market value of the franchise, then either party may initiate an action in the circuit court of the county where the franchise retail outlet exists and the matter shall be tried in the same manner as the manner set forth in ORS chapter 35 for general condemnation actions. Reasonable attorney fees and appraiser's fees shall be awarded to the franchisee-dealer if the amount awarded to the franchisee-dealer by the jury or the court is 10 percent higher than the final offer, if any, made by the refiner or distributor prior to the filing of the lawsuit./

/SECTION 11. Every person who violates the terms of any injunction issued pursuant to this 1975 Act shall forfeit and pay a civil penalty of not more than $25,000 per violation./

ARBITRATION

SECTION 8. No action may be brought under section 6(2) of this Act if the contractual agreement provides for the binding arbitration of disputes arising under such agreement, including disputes arising from the termination of such agreement, in accordance with the rules of the American Arbitration Association, or as the parties may have agreed upon in the terms and provisions of the contractual agreement.

LIMITATIONS

SECTION 9. No action may be brought under section 6(2) of this Act unless commenced within two years after the cause of action shall have occurred.

SEPARABILITY

SECTION /12/ 10. If any provision of this 1975 Act or its applicability to any persons or circumstances is held invalid, the remainder of the Act or the application of the provisions thereof to other persons or circumstances is not affected.

EFFECTIVE DATE

SECTION /13/ 11. /To the extent that such application does not impair the obligations of contracts, sections 1, 2 and 4 to 11 of this Act apply to franchises existing on the effective date of this Act./ This Act will take effect January 1, 1976, and shall apply to all contractual agreements entered into or renewed after its effective date.

/SECTION 14. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect July 1, 1975./

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March 29, 1976

Representative Bob Bradley
House of Representatives
Juneau, AK 99801

Dear Representative Bradley:

George Gregson is a substantial property owner in the Anchorage area and has called my attention to Senate Bill No. 438 which apparently is now under consideration by the Commerce Committee in the House. Mr. Gregson owns two service station sites in Anchorage and feels that the long-term effect of the new balance this legislation proposes to strike between the dealer on the one hand and the refiners and distributors on the other will be detrimental to his interest as a site owner. Personally, I long ago lost faith in the efficacy of this type of legislation to cure real or imagined evils. Having recently been engaged in attempting to represent a small trailer court operator who was swept into the consumer protection investigation net, I am even more sensitive to the abuses that can flow from the power this type of legislation places in the hands of a "dedicated" consumer protector.

I have discussed this proposed legislation in depth with Charlie Brown of Charlie Brown's Chevron and he is vehemently opposed to the legislation. He feels, as I do, that the burden placed on refiners and distributors by those dealers who feel they need the type of advantage here created, will ultimately be passed right back on those competent dealers that have run a successful business for years without this restructuring.

It is my understanding the matter is now before the House Commerce Committee, but in any event I wanted to record this expression with you.

Very truly yours,

Burton C. Biss

BCB:esp

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99801

M E M O R A N D U M

April 15, 1976

SUBJECT: Commerce Committee Substitute for Senate Bill 438 am

TO: Representative Bradley, Chairman,
House Commerce Committee

FROM: David T. Walker, Legislative Counsel

Attached is a committee substitute drafted in accordance with the committee's request. I would like to remind you of an amendment which should be made to the bill to avoid a conflict with controlling federal law (15 U.S.C. 513).

I have attached a copy of a memo to Representative Rudd, dated March 29, which explains the necessity for the amendment and supplies the needed language.

cc: Rep. Rudd
Rep. Gardiner

M E M O R A N D U M

March 29, 1976

SUBJECT: Senate Bill 438 am

TO: Representative Lisa Rudd

FROM: David T. Walker, Staff Attorney

I drafted § 45.50.810(d) of SB 438 at the request of Senate Commerce Committee. It was my intention to parallel the applicable federal law - in fact I represented to the committee that the language did that.

I have attached a copy of an amendment which should be made to the language of the bill. The added language would make it clear that the state law followed the controlling federal anti-trust provisions and would avoid needless litigation.

DTW:bh

Attachment

Amendment suggested to SB 435 am

PAGE 5 LINE 3

After "dealers" insert the following:

"where the effect of the discrimination may be substantially to lessen competition"

PAGE 5 LINE 4

After "costs." insert the following:

"Nothing under this section shall prevent a refiner or distributor from offering a lower price or furnishing a service or facility to a dealer when the offer is made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by that competitor."

SB 613

"An Act relating to regional Native housing authorities."

COMMITTEE REPORT

HOUSE

2/12/86 FINANCE

Mr. Speaker: Date 4-15-86

The Committee on FINANCE has had SB 613 am

under consideration. A Majority of the members of the Committee

(X) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

JOE P. JOSEPHSON
Attorney at Law
1526 F Street
Anchorage, Alaska 99501

(907) 272-8531

Robert Goldberg, of counsel
George Kaufmann, of counsel
(D.C. bar only)

January 26, 1976

S.B. 613

File for members

The Honorable Jalmar Kerttula
Majority Leader
Alaska State Senate
Juneau, Alaska

Dear Jay:

As you may know, I represent Chugach Natives, Inc. and the village corporations which are situated primarily in your district.

Under A.S. 18.55.996 various native associations are given powers and duties comparable to duties of ASHA for the purpose of promoting more adequate native housing.

A.S. 18.55.996 refers to "Chugach Native Association". Chugach Native Association is, and has been for many years, a virtually defunct paper organization which carries on no activities. The more appropriate sponsor for housing within the Chugach region is North Pacific Rim, Inc. the regional corporation's non-profit arm. Making a change in the statute to delete the reference to Chugach Native Association and to insert "North Pacific Rim, Inc." in lieu thereof would further the objectives of the act and would put the situation in your area in closer parallel to what exists in other areas of the state.

I have talked to the leaders of each village corporation as well as to the leadership of the region and all concur. If you could sponsor this change I know that your constituents in Tatitlek, Cordova, Chenega, and Valdez would be appreciative. Incidentally, if you can undertake this, it would probably be a good idea to add the terms, "Eyak", and "Chenega" to the list of communities in A.S. 18.55.996(9). After the native claims act was passed, Eyak and Chenega won recognition as native villages although they had not been listed within the claims act itself.

I enclose a copy of the present statute for your reference. Please don't hesitate to call on me if you have any questions.

Sincerely,

Joe P. Josephson

Enclosure

NORTH PACIFIC RIM NATIVE CORPORATION

912 EAST 15TH AVENUE
ANCHORAGE, ALASKA 99501

PHONE 278-0018 OR 274-8961

February 12, 1976

Senator Kerttula:

I would like to summarize the important factors which have led to the submission of SB 613.

1. There is a growing housing problem in the Chugach region.
2. Both Chugach Natives, Inc. and NPRNC want to have a housing authority functioning in the region and at present we have none.
3. Chugach Native Association is defunct and no longer serving people in the region.
4. We were established a little less than two years ago to develop comprehensive human services throughout the region. Currently we operate with an annual budget (FY 76) of $435,000 supporting community development, education, health, and manpower programs. We are under contract with a variety of state and federal agencies to provide these programs.
5. We cannot begin to effectively respond to local housing needs unless SB 613 is passed.

Your efforts on behalf of the people in the region are greatly appreciated.

Sincerely,
Ford E. Powell-Ring

2-12-76

SB 682 .A1M

"An Act relating to winery licenses."

COMMITTEE REPORT

3/12/78

HOUSE

Mr. Speaker: Date _____

The Committee on COMMERCE has had SB 682 am under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____	_____	_____	_____
_____		_____	_____
_____		_____	_____
_____		_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

Box 2000 / Anchorage, Alaska 99510 / 272-7517

Brown Jug

Friendly Spirits Since 19[illegible]

March 17, 1976

The Honorable Bob Bradley
Alaska State House of Representatives
Pouch "V" State Capitol Building
Juneau, Alaska 99811

RE: Senate Bill #682
Winery License Law

Dear Mr. Bradley:

Enclosed is information on the only winery operating in Alaska at the present time.

The winery license law should be enacted to provide for the proper operation of this type of business in conformity with the business practices in California and other areas of the world.

A wine producer must have the opportunity to develop a market demand for his product and this can only be accomplished by direct contact with the consumer through wine tastings and direct sales of the wines produced at the winery. After the wine producer has proven that there is a public demand for the product, then the market will be expanded by the Wholesalers and Retailers.

Enactment of this winery provision will encourage the development and production of wines from other Alaskan fruits and berries as well as the possibilities of growing wine grapes in a greenhouse environment.

Sincerely,

Mike O'Neill
Director

JOYS OF WINE

Being

A Storehouse of All Needed Information, Instruction, & Wine Intelligence

UNDERSTANDING A WINE LABEL · STOCKING A CELLAR

THE ORDERING, STORING, & SERVING OF WINE

Maps of the Great Wine Regions · Vintage Charts

Expert Selections of Outstanding Wines

A Collection of Photographs, Paintings, Lithographs, Sculptures, & Artifacts;

Together With Illustrated Presentations of

THE WINE MUSEUMS OF SAN FRANCISCO

& CHÂTEAU MOUTON ROTHSCHILD

GOOD COUNSEL ON WINE & FOOD *by James Beard*

WITH APPROPRIATE MENUS AND RECIPES

AN APPRECIATION OF CALIFORNIA WINES

by Robert Lawrence Balzer

A TREASURY OF VINTAGE VERSE & STORIES

All Prefaced by

Some Reflections on Wine and Civilization

THE WHOLE PRESENTED BY

Clifton Fadiman

AND

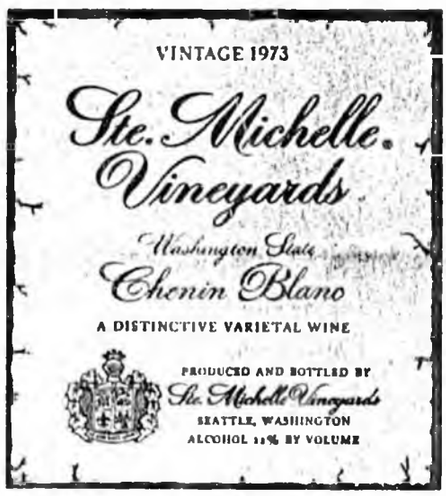
Sam Aaron

Though the scuppernong will
in the humid coastal climate of
owlands along the Atlantic, the
ca, hybrids, and vinifera will not.
cooler and drier Piedmont, bunch
s and many other tree fruits (most
ly peaches) do extremely well.
table wine is made in the South-
Hobbyist vintners in North and
Carolina, Georgia, and Tennes-
count for most of the very small
ction. Wine is not a particularly
on drink in many parts of the
Numerous counties in several
are still legally dry, but the future
ine has been improving over the
few years. Old laws have been
ed or new ones enacted. Experi-
l hybrids resistant to disease may
more of the hot, humid land to
ed for vineyards, especially in
a. Georgia will still have its peach
but some of its rich hill country
rove ideal for grapevines produc-
ssic wines

THE ORTHWEST

have long grown in Washington
egon, but winemaking is a rela-
new pursuit in these states.
gs of wine grapes have been
expanded in the past few years,
t enthusiastic Northwesterners
their states will soon be making
s good as California's and in
ies greater than any other state
lifornia produces.

he Yakima Valley in southeast-
ashington is that state's main
growing region. Before irrigation
water from the Columbia River
ed, the gently sloping valley
e surrounding area seemed a
sert, with so little rain that few
crops could grow. The entire
s now literally a fruitful place.
ds are concentrated in the lower
around Sunnyside, Benton City,



Guided by André Tchelistcheff, Washington State vinters have produced good varietals from vinifera grapes

and Prosser (where the Seneca Foods-Boordy Vineyards winery that makes the Washington State version of Philip Wagner's popular Maryland wine is located). Hybrids cover most of the acreage, but some Chardonnay, Cabernet, and Pinot Noir grow there too. In fact, true vinifera grapes have for many years thrived in parts of Washington and Oregon. They did not make much of a name for themselves because no one was using them for wine. Some claim that parts of the Yakima Valley should produce as good a varietal wine as can be made in the United States.

Wine is being made in Seattle from grapes grown in the Yakima Valley and in a few other sections of the state. The Ste. Michelle label wines have gained some fame, but for my taste they are odd and unbalanced. The Cabernet Sauvignon seems thin and lacking in good sound vinous character. The Johannisberg Riesling is watery and without varietal flavor. The wines will probably improve as viniculture becomes better understood and more good grapes become available to the vintners.

Washington seems to have more than its share of eager people who make wine as a hobby. One group of professors from the University of Washington in Seattle had such success with

For centuries the Slavs made whey wine from Cottage Cheese fermented with honey. While these wines were delicious and wholesome after a proper fermentation period, they ware unstable and could not be bottled for storage.

Legend was that those who consumed these wines were immune to Black Death (Bubonic Plague) of 1383 and 1665. However, Engels make no medicinal claims for this product based upon what was handed down from Grandmother Mary Bouska, of Prague, Czechoslavakia.

Fr. Emmet R. Engel and his brother George R. Engel, of Palmer, Alaska through years of testing discovered that the basic character of the ancient whey wines could not only be duplicated through the use of ingredients not available to the ancient Slavs, but resulted in a stable product hitherto unknown.

Milk, unlike fruits or grains, contains no fusel oil or tannic acid.

Although grapes grow in Alaska, the state's first winery makes its product by fermenting milk

their homemade vintages that they banded together as the Associated Vintners. Their wines are as popular in the Seattle area as many of the "boutique"

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER / POUCH S — JUNEAU 99811

March 25, 1976

The Honorable Bob Bradley
Chairman
House Commerce Committee
Alaska State Legislature
State Capitol Building
Juneau, Alaska

Re: Senate Bill No. 682 am

Senate Bill No. 682 am, an Act relating to winery licenses, was introduced in the House on March 12, 1976 and was referred to the House Commerce Committee.

The House Commerce Committee on March 22, 1976 referred the bill to the Rules Committee without recommendation.

For your information and members of the House Commerce Committee, I am enclosing a copy of a memorandum from Linda E. Brown, Director, Alcoholic Beverage Control Board, Department of Revenue, Anchorage, Alaska advising of no fiscal impact, as concerns the proposed legislation with respect the Alcoholic Beverage Control Board.

Very truly yours,

R. D. Stevenson
Special Assistant

cc: The Honorable William Parker
Chairman
House Rules Committee

The Honorable Jalmar Kerttula
Chairman
Senate Commerce Committee

Linda E. Brown
Director
Alcoholic Beverage Control Board
Department of Revenue
Anchorage, Alaska

02-001B

STATE
of ALASKA

MEMORANDUM

TO: R. D. Stevenson
Special Assistant
Department of Revenue
Juneau

DATE : March 19, 1976

FROM: Linda L. Brown
Director
ABC Board
Anchorage

SUBJECT: SB 682 am

There is presently only one establishment in the state producing wine. We have received no inquiries in regards to winery licensing and therefore do not anticipate much activity in the next several years. To have impact on the BRU, at least five wineries would have to be in operation in the state. We do not anticipate such activity.

LEB:vk

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S – JUNEAU 99811

March 25, 1976

Honorable Susan Sullivan
Chairman
House Health, Education &
Social Services Committee
Alaska State Legislature
State Capitol Building
Juneau, Alaska

Re: House Bill No. 682

Dear Ms. Sullivan:

House Bill No. 682, an Act relating to returnable containers, was introduced in the House on March 10, 1976 and was referred to the House Health, Education & Social Services and Commerce Committees.

For the consideration of the House Health, Education & Social Services Committee, I am enclosing a Fiscal Note and accompany schedule prepared by Linda E. Brown, Director, Alcoholic Beverage Control Board, Department of Revenue, Anchorage, Alaska concerning administrative costs of House Bill No. 682.

If you or any members of the House Health, Education & Social Services Committee have any questions on the material submitted, please telephone the writer at 465-2397 and I will contact Ms. Brown in Anchorage for further information.

Very truly yours,

R. D. Stevenson
Special Assistant

Enclosure

cc: The Honorable Bob Bradley
Chairman
House Commerce Committee

Linda E. Brown
Director
Alcoholic Beverage Control Board
Department of Revenue
Anchorage, Alaska

THE LEGISLATURE OF THE STATE OF ALASKA

FISCAL NOTE

Second Session - Ninth Legislature

I. REQUEST

Bill No. HB 862

Title: An Act Relating to Returnable Containers

Requested by: _____ Date: March 22, 1976

Return Date Requested: _____

Agency: Department of Revenue Program: ABC Board

II. FISCAL DETAIL

Budget Request Unit(s) Affected: Alcoholic Beverage Control Board

A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100	PERSONAL SERVICES	-0-	90.8	104.4	121.4	138.0	158.7
200	TRAVEL	-0-	30.0	34.5	39.7	45.6	52.4
300	CONTRACTUAL	-0-	35.0	40.2	46.2	53.1	61.0
400	COMMODITIES	-0-	1.2	1.4	2.1	2.4	2.8
500	EQUIPMENT	-0-	1.0	1.2	1.4	1.6	1.8
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	-0-	158.0	181.7	210.8	240.7	276.7

B. FUNDING: (Thousands of dollars)

GENERAL FUND	-0-	158.0	181.7	210.8	240.7	276.7
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	0 /	5 /	5 /	5 /	5 /	5 /
MAN MONTHS (P./T.)	0 /	60 /	60 /	60 /	60 /	60 /

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

SEE ATTACHMENT

IV. ATTACHMENTS

V. DATE: 3/22/76 PREPARED BY: Lynda E Brown

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

H/S 50

III Analysis:

A. Assumption is five new positions will be needed as follows:

Investigator I	(Anchorage)	13A	19.1
Investigator I	(Fairbanks)	13A	22.0
Investigator II	(Juneau)	15A	22.0

to inspect and regulate redemption centers, dealers, and distributors.

Clerk Typist III	(Anchorage)	8A	13.9
Clerk Typist III	(Anchorage)	8A	13.9

to process applications and additional paperwork.

Base salary plus 21% in benefits, plus 15% inflation per year.

Assumption is additional Board time and travel of one day per month for hearings on applications and regulatory functions.

B. Program Summary

In addition to above position expenditures, increased office space, equipment and commodities will be needed.

Additional day for Board time and travel @ $1100 per meeting x 12 = 13.2

Seventeen annual trips per investigator @ $150.00 travel expense each, including 70 days at average of $42 per day per diem = 16.5

CS SJR 5

"Relating to RCA Alaska Communications, Inc., proposed satellite system."

2-6-75

COMMITTEE REPORT

HOUSE

Mr. Speaker: Date _____

The Committee on COMMERCE has had CSSJR 5 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

JAY S. HAMMOND, Governor

POUCH A
JUNEAU 99801

STATE OF ALASKA
OFFICE OF THE GOVERNOR

February 14, 1975

Walter R. Hinchman, Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street N.W.
Washington, D.C. 20554

Dear Mr. Hinchman:

In response to the Commission's request that the State comment on the RCA Alaska Communications plan of September, 1974, we submit the attached document.

The position of the State of Alaska is that since the RCA satellite is designed for service to the country as a whole, the merits of the issue now before the Commission should be judged accordingly. The satellite proposed by RCA offers Alaska no better service for voice communications than existing systems and, further, will not meet the comprehensive long-range needs of the State. In view of the Commission's "Open Skies" policy for domestic satellite communications, it seems inappropiate for the State to object to the launch of the satellite. However, the State cannot endorse the RCA plan, as it is not based on a system designed for Alaska's unique needs.

The State's vast distances, rugged terrain, and harsh weather conditions create a situation far different from that of the Lower 48. Our population is small, with twenty percent living in isolated areas connected to the rest of the State and the world only by airplane. With an area one-fifth the size of the entire continental United States and less than 5,000 miles of road, communications in many cases takes the place of transportation for business, education, health service, and personal exchanges. A large portion of Alaska presently has only the sparsest of communications - some have none - lacking in many cases is even the most basic 24-hour voice capability for medical and other emergencies.

I urge the Commission to take into account the importance of the communications issue in Alaska, as evidenced by the active involvement of the State Legislature in the definition and planning of the system. Attached is a joint resolution and a legislative proposal dealing with the subject.

We realize that much remains to be done. Alaska is in the precedent-setting situation of being able to plan its future communications system rather than having to accept the traditional incremental development. Toward that end my Office of Telecommunications together with members of the Legislature will conduct an intensive six-to-nine month planning effort to fully define the State's long-range communications plans, and to determine alternatives for their implementation.

The record of your assistance and cooperation with the State is well known and I would like to express the appreciation of all Alaskans for your concern. We look forward to working with the Commission to resolve the problems and to meet the special communications needs for Alaska.

Sincerely,

Jay S. Hammond, Governor

State of Alaska Comments
February, 1975

RCA Alaska Communications Plan

In September, 1974, RCA Alascom/Globcom submitted its plan for Alaska Communications, 1974-1980, to the Federal Communications Commission. This plan was reviewed by the previous Administration's Office of Telecommunications and comments were issued in October, 1974. These comments showed that the plan submitted by the RCA companies does not adequately meet the State's need for communications services. The comments further state that economic information presented by RCA was not sufficient to allow analysis of financial aspects of the plan nor to determine the allocation of costs between Alascom and Globcom. A copy of the summary comments issued by the State is attached.

This Administration agrees with the objections expressed in the October comments, confirms their validity, and fully endorses the concepts and recommendations expressed in them.

RCA's Response to the State's Comments

At a meeting in Anchorage on January 13, 1975, RCA presented to the State several documents describing proposed modifications to the plan of September, 1974. These modifications would slightly increase the gain of several transponders and modify the pointing of one antenna to give better coverage of Alaska. The proposed ground system was revised to a modest extent by de-emphasizing the cluster concept and by reducing the size of some earth station antennas.

The increased gain still falls short of the State's recommendation by a factor of 10, and the tilted antenna cannot make up for the other deficiencies of the satellite design. The modified satellite still gives no advantage over existing satellite systems. The ground system modifications were an important first step, the State believes, but need to be carried further to eliminate all "cluster" construction and focus exclusively on a network of small, low-cost ground stations.

Areas of Understanding

Futher discussions between the State and RCA in Alaska and in Washington, D.C., have helped clarify some of the issues. Progress made by small working groups demonstrates positive cooperation between RCA and the State on most technical, economic, and management issues. Significant differences persisted only in the area of satellite system design.

Substantial agreement has been reached on the matter of service requirements. RCA has offered to provide the requested economic data concerning accounting procedures.

The State and RCA agree generally on the use of small earth stations for voice communications. Further, RCA has acknowledged the State's position regarding high-power transponders for television and other advanced communications services by offering to put them on future generation spacecraft.

Continuing Concerns

The most serious unresolved problem results from RCA's system concept which is based on a satellite designed to provide services to the Lower 48 states rather than to meet Alaska's needs. The satellite planned for the joint Alascom/Globcom system is far better suited for Globcom's customers than for Alascom's. Acceptance of the RCA plan would preclude the State from obtaining a system optimized for it by forcing the use of facilities not able to provide necessary services on a cost-effective basis.

Because of ill-defined arrangements between the two RCA companies, plus the fact that development and construction of the spacecraft have been underway at RCA Astro-Electronics for more than a year (under waivers from the Commission rather than a Construction Permit) it is our view that Alascom finds itself committed to selling the services of a satellite of marginal utility to its customers. This conclusion is supported by the fact that the RCA plan, still more than a year from operational status, offers no advantage to Alaska over satellites now in orbit.

Service Requirements

To further present the State's needs so that a definitive implementation plan can be developed, a two-phase concept has evolved:

Phase I Voice communications for all permanent communities with a population fo 25 or more. This service is urgently needed, primarily for emergency medical use, and shall be initiated on a top priority basis using the most suitable satellite available.

Phase II Television and other comprehensive communications services for all of Alaska. This service cannot be provided with present spacecraft. Therefore, the Administration and the Legislature will undertake a six-to-nine month planning effort to determine Alaska's requirements and the best means for meeting them. The significance to the State of the decisions to be made in our long-range planning is very great in terms of future benefits and flexibility of service.

Phase I Status

Phase I calls for small earth stations of fairly simple design and lowest reasonable cost supplied by one of the following:

1. Alascom, utilizing its own earth stations,
2. Alascom, leasing State-owned earth sations,
3. other communications carrier participation,
4. the State of Alaska, using its own facilities.

Due to the urgent need for this service the State is exploring, without prejudice to RCA Alascom, the means for establishing a ground system of approximately 100 earth stations. Initial operation would be on an existing domestic satellite and continued on the most cost-effective spacecraft available. Initial steps to begin the process of State procurement have been taken by the State Legislature through the introduction of enabling legislation. (See Attachment) SB 199

Phase II Plans

Because of Alaska's need for an extensive network of small, low-cost earth stations, high-power transponders are necessary to provide these comprehensive communications services, and to do so on a cost-effective basis.

RCA agrees to the need for high-power transponders but contends that construction of the first two spacecraft is too far along to incorporate such changes. RCA has offered to place a limited number of such transponders on later satellites if the State makes a substantial long-term financial commitment.

It has become apparent from the discussions of the past several months that far more extensive study and planning must be done before the State makes any major, long-term commitments. The State Legislature and the Governor's Office of Telecommunications are developing the framework under which this planning will be done.

Conclusions and Recommendations

The State concludes that the current RCA satellite plan offers no advantage to Alaska over existing satellite systems. Even the State's Phase I requirements can be met by existing satellites. There is clearly no advantage for the State to wait for the launch of an RCA satellite which can only provide similar services.

Since the Commission has an "Open Skies" policy with respect to domestic satellite communications, and because the RCA system is largely designed to provide service outside the State, it is inappropriate for Alaska to object to the launch of the RCA spacecraft.

It cannot be overemphasized, however, that Alaska in no way endorses the RCA plan as designed for, or meeting Alaska's needs; nor should the Commission grant a Construction Permit to RCA on the grounds that the proposed system meets Alaska's needs.

It should be noted that the objections of the State are based primarily on the design of the satellite to be used by Alascom, and not, in any manner, to the participation of that company as a communications carrier for Alaska.

On the basis of the above, the State of Alaska recommends to the Federal Communications Commission that:

1. Alaska not be required to use a specific satellite, RCA or other, to supply Phase I or Phase II services if in the State's judgement, a more cost-effective option is available;

2. Any carrier providing Phase I service to Alaska be required to meet the following criteria:

   a. Compliance with State-approved small earth station specifications, and State-approved mixture of satellite and terrestrial services;

   b. Satisfactory presentation of economic data, including accounting procedures and rate separations methods;

   c. Full disclosure of business relationships among companies subsidiary to a common management;

3. The Commission judge the RCA Alaska Communications plan at issue only on the merits of service proposed for the entire United States, and not on the basis of specialized service for Alaska.

October 14, 1974

Comments on Sections II, III, and Attachments: The Technical Factors

Before summarizing the technical factors in RCA's "Alaskan Communications Plan 1974-1980," it should be mentioned that much information is missing and much that has been presented is misleading or contradictory. In the following comments, only the major issues have been addressed; opportunity should be reserved to comment further on these and other issues when RCA provides a clearer plan for review.

The major technical shortcomings of the plan can be summarized as follows:

1. The ground station design for telephone service to medium and small communities is approximately three times as expensive as necessary, due to system choice.

2. The design of all the RCA satellite transponders is optimized for telephone service between urban centers and consequently is inappropriate for Alaska's needs.

3. The satellite capacity required for Alaskan phone service is greatly overestimated.

4. The service offered will include two satellite hops (1 1/4 second delay in conversations).

5. RCA's plan proposes construction of expensive ground microwave and VHF systems despite the availability of much cheaper satellite alternatives.

6. The plan gives no assurance that the satellite antennas will provide the signal strength promised in mainland Alaska.

7. The $100,000 television reception stations proposed will not provide usable television to two-thirds of Alaska; RCA offers no technically valid alternative for Alaskan television distribution.

If there were no valid alternatives to RCA's proposals, or if the alternatives offered only moderate savings, it might be reasonable to ignore the shortcomings of the plan and allow RCA to proceed. There are, however, far less expensive, proven alternatives available. A more efficient telephone system is used by General Telephone and Electric in Algeria and Brazil. A more efficient satellite transponder design for Alaska is obvious and easy to implement. NASA's ATS-6 satellite provides high quality television to commercial ground stations costing only $5,000, not $100,000. The revenue RCA desires from Alaska is far more than that needed to use this efficient technology.

The RCA satellite design reflects none of the recent technology. Though it is supposedly designed to supply Alaska's needs, it will supply signals somewhat weaker than Anik, the Canadian satellite, already in orbit. Though RCA, rather than Western Union, is supposed to serve Alaska, Westar's signals are only slightly weaker in Alaska, only because RCA has requested a more favorable orbital position.