

HB

644

(9)

COMMITTEE REPORT

HOUSE

1/30/80

FURTHER: FINANCE

Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had HB 644

"An Act creating the Alaska Statehood Commission; and providing for an effective date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
- new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

T. Buckholtz

Wesley Anderson

J. Malone

Charles Pan

MEMBERS HAVING
OTHER RECOMMENDATIONS:

None

Charles Pan

CHAIRMAN

(Revised)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 644 Alaska Statehood Commission
Title _____
Requested by Rep. Parr Date Feb. 29, 1980

II. FISCAL DETAIL

Agency Affected Alaska Statehood Commission
Program Category Affected General Government
BRU, Program, or Subprogram(s) Affected _____

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

| | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 |
|--------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES | | 141.1 | | | | |
| 200 TRAVEL | | 60.0 | | | | |
| 300 CONTRACTUAL | | 175.0 | | | | |
| 400 COMMODITIES | | 0.4 | | | | |
| 500 EQUIPMENT | | -0- | | | | |
| 600 LAND & STRUCTURES | | -0- | | | | |
| 700 GRANTS, CLAIMS, ETC. | | -0- | | | | |
| OTHER* | | 30.3 | | | | |
| TOTAL | | 406.8 | | | | |

FUNDING (Thousands of Dollars)

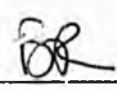
| | | | | | | |
|-----------------------------|--|-------|--|--|--|--|
| GENERAL FUND | | 406.8 | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Fund Source) | | | | | | |
| | | | | | | |

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL TIME | | | | | | |
| PART TIME | | | | | | |
| TEMPORARY | | | | | | |

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

* \$30.3 To Alaska Division of Elections, Office of Lt. Governor.

IV. DATE Feb. 29, 1980 PREPARED BY Rep. Brian Rogers 
AGENCY _____
PHONE _____

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

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

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 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

| | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 |
|--------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES | | 141.1 | | | | |
| 200 TRAVEL | | 28.1 | | | | |
| 300 CONTRACTUAL | | 258.9 | | | | |
| 400 COMMODITIES | | 0.4 | | | | |
| 500 EQUIPMENT | | -0- | | | | |
| 600 LAND & STRUCTURES | | -0- | | | | |
| 700 GRANTS, CLAIMS, ETC. | | -0- | | | | |
| Other* | | 30.3 | | | | |
| TOTAL | | 461.8 | | | | |

FUNDING (Thousands of Dollars)


| | | | | | | |
|-----------------------------|--|-------|--|--|--|--|
| GENERAL FUND | | 461.8 | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Fund Source) | | | | | | |
| | | | | | | |

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL TIME | | | | | | |
| PART TIME | | | | | | |
| TEMPORARY | | | | | | |

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IV. DATE Feb. 29, 1980 PREPARED BY Rep. Brian Rogers 
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CS taken to IA 7:50 pm 9/20/80 29

Introduced: 1/30/80
Referred: Judiciary and Finance

BY ROGERS, ANDERSON, BUCHHOLDT, BARNES,
BEIRNE, BETTISWORTH, CARNEY, FREEMAN,
FULLER, HALFORD, HAYES, HURLBERT,
METCALFE, MILES, MOSS, MUNSON, O'CONNELL,
PARR AND RANDOLPH

1 IN THE HOUSE

2 HOUSE BILL NO. 644

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Alaska Statehood Commission; and
7 providing for an effective date."

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

9 * Section 1. FINDINGS AND PURPOSE. The people of Alaska seek reasonable
10 self-control of their lives, land and water, fish and wildlife, and trade and
11 commerce. The legislature finds that the current relationship of the people
12 of Alaska to the United States inhibits the achievement of that goal. The
13 purpose of this Act is to study the status of the people of Alaska within the
14 United States and to recommend appropriate changes to that status.

15 * Sec. 2. AS 44.03 is amended by adding new sections to read:

16 ARTICLE 2. ALASKA STATEHOOD COMMISSION.

17 Sec. 44.03.100. ALASKA STATEHOOD COMMISSION. The Alaska Statehood
18 Commission is established to study the status of the people of Alaska
19 within the United States and to consider and recommend appropriate
20 changes in the relationship of the the people of Alaska to the United
21 States.

22 Sec. 44.03.110. DUTIES. The commission shall study, review, and
23 report to the legislature and to the people of the state on

hold public hearings throughout the state,

24 (1) progress made in implementing the Alaska Statehood Act
25 and the likely nature of its implementation in the future;

26 (2) recent experiences of other states and peoples under the
27 American flag in their relationships with the United States;

28 (3) the structures of foreign federations, including their
29 methods for changing forms of association;

1 (4) alternative forms of association possible between the
2 people of Alaska and the United States) *and the possibility of disassociation;*

3 (5) the legal basis for new forms of association between the
4 people of Alaska and the United States, including amendments to the
5 constitutions of the United States or of the state of Alaska;

6 (6) other matters the commission considers germane to its
7 purpose.

8 Sec. 44.03.120. MEMBERSHIP. The commission shall consist of nine
9 members. One shall be appointed by the governor; one shall be appointed
10 by the chief justice of the supreme court; one shall be appointed by the
11 presiding officer of each house of the legislature; one shall be
12 appointed by the lieutenant governor; and one shall be elected from each
13 judicial district of the state at the next statewide election.

14 Sec. 44.03.130. TERM. The term of the members of the commission
15 begins 30 days after the certification of the election of elected
16 members of the commission by the lieutenant governor and expires on
17 submission of the final recommendations by the commission.

18 Sec. 44.03.140. VACANCIES. A vacancy in the membership of the
19 commission shall be filled by the authority that made the vacated
20 appointment. The governor shall fill vacancies in seats held by elected
21 members.

22 Sec. 44.03.150. POWERS. (a) The commission may employ profes-
23 sional, legal and other staff assistants and enter into contracts for
24 goods and services.

25 (b) Members of the commission are entitled to expenses, travel,
26 and per diem allowances provided by law.

27 (c) Agencies of the state shall provide the commission with infor-
28 mation requested by it.

29 Sec. 44.03.160. REPORTS, HEARINGS AND RECOMMENDATIONS. (a) The

1 commission shall make a preliminary report to the legislature within the
2 first 10 days of the Second Session of the Twelfth Alaska Legislature.

3 (b) The commission shall and committees of the legislature may
4 hold hearings on the preliminary report throughout the state.

5 (c) The commission shall submit its final recommendations to the
6 legislature within the first 10 days of the First Session of the Thir-
7 teenth Alaska Legislature.

8 Sec. 44.03.170. CERTAIN INTERESTS PRESERVED. If the commission
9 recommends that the legislature seek a new relationship between the
10 people of Alaska and the United States, the legislature intends that
11 interests created under the Alaska Native Claims Settlement Act and
12 other laws for the protection and benefit of Alaska natives and the
13 legitimate interests of the United States in the land, resources, and
14 defense of Alaska be preserved.

15 Sec. 44.03.180. ELECTION. (a) The lieutenant governor shall
16 conduct the election of members of the commission at the first statewide
17 election held 90 days after the effective date of AS 44.03.100 - 44.03.-
18 200. The election shall be held under the provisions of AS 15 except to
19 the extent that those provisions are inconsistent with (b) of this
20 section.

21 (b) Provisions for the election held under this section are as
22 follows:

- 23 (1) the election will be nonpartisan;
24 (2) candidates will file nominating petitions containing not
25 less than 250 signatures not less than 60 days before the date of the
26 election at which they will be elected;
27 (3) no filing fee is required;
28 (4) a separate ballot will be used.

29 (c) The lieutenant governor may adopt regulations to implement the

1 provisions of this section.

2 Sec. 44.03.200. DEFINITION. In AS 44.03.100 - 44.33.200 "commis-
3 sion" means the Alaska Statehood Commission.

4 * Sec. 3. AS 44.03.100 - 44.03.200, enacted by sec. 2 of this Act, are
5 repealed July 1, 1983.

6 * Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-
7 070(c).

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On Potential avenues for a d-2 Strategy

As the situation deteriorates in Washington D.C., it becomes increasingly apparent that a consensus is developing to resist passage of any legislation and to struggle with litigation on the application and regs of the Antiquities Act. Given this set of circumstances, a number of thoughts occur which could be pursued if they led toward the consensus goal.

(1) Changed Relationship Resolution. As a result of the application of the Antiquities Act, and contemplated House legislation in HR39, the State Legislature may want to state in a resolution that the actual status of Alaska as an equal constitutional member of the union has been brought into question. The land arguments utilized to make this case need not have solid legal meaning -- this is a political thing. It's like Quebec saying its relationship is changing with the federation.

(2) Commission on the Status of Alaska. The government could unilaterally form, or form in conjunction with the federal government, a Commission on the Status of Alaska. This would be similar to Commissions set up to study the relationship of Puerto Rico and Guam to the USA. Since the federal government will not want to entertain such a body the likelihood is that it would have to be set up unilaterally in Alaska; nevertheless, this is how the previous commissions were originally set up in the Commonwealths.

(3) The Alaska public could be presented with Advisory Public Opinion Questions -- in local and statewide elections -- to gauge their opinions on the changing nature of the relationship with the USA. One example:

WHICH OF THE FOLLOWING STATEMENTS BEST REFLECTS THE RELATIONSHIP BETWEEN ALASKA AND THE UNITED STATES IN TERMS OF YOUR EXPERIENCE AS A RESIDENT HERE:

- (a) FULL AND EQUAL TREATMENT AS THE RESIDENT OF ANY STATE IN THE UNION
- (b) INCOMPLETE AND INEQUAL TREATMENT BASED UPON RESIDENT USE AND ACCESS TO FEDERAL LANDS IN ALASKA, AND THE NON-TRANSFER OF PROMISED LANDS TO THE STATE
- (c) COLONIAL STATUS

Alaskans could also be asked whether they consider themselves a citizen, first and foremost, of the U.S.A., or Alaska. Alaskans could be asked to describe Alaska with one of the following words: state, territory, colony. And so on.

The effect of this in news would be quite devastating in world media, since it resonates with what Quebec is doing in Canada, the Basques in Spain, the Flemish in Belgium, the Scottish devolution question, the Irish issue, and so on. It also widens the scope of the d-2 question so that Vance and Andy Young see Alaska as a major problem.

(4) Begin an initiative campaign to create the Commission on the Status of Alaska, or some related matter. Raise money in the private sector, run a campaign.

(5) Send delegations to Mexico and Japan again and open the questions of energy on an informal, but unilateral basis. Tell everyone that's what Alaska is doing -- just exploring avenues for possible action.

(6) Promote a symbolic case, perhaps of a Native Alaskan family, which refuses to pay income tax to the USA, except under protest, because the taxpayer insists that he has been denied equal citizenship, and the relationship with the USA is unclear.

(7) Run a campaign in Alaska to get as many Alaskans to join the tax-payment-under-protest movement as possible. The campaign theme is already written: "Taxation without Representation is Tyranny."

(8) Have the U. N. Committee on Colonialism study the Alaska case and propose a resolution to the full body determining whether Alaska is a colony or a state. This may sound unusual but this same UN Committee, which is populated by third-world nations, passed a resolution several years ago naming Puerto Rico as a colony of the USA, over the protests of both Puerto Rico and Washington. The resolution, as I remember, did not get to the UN floor, but the stories in the New York Times and Washington Post were, to say the least, embarrassing.

(9) Open up direct negotiations between the State of Alaska and Japan on the potential Japanese investment in the gas pipeline. Send a delegate to the next OPEC meeting as an observer. Send a delegate to the next Pacific Rim nations economic roundtable. And so on, and so on.

(10) Establish the "status" issue as the prime topic for the next constitutional convention in Alaska, and develop alternative plans and proposals for constitutional definition of the new relationship. The constitutional convention may just be interested in calling Alaska's relationship with the USA, a "free associated state" -- and not a state in the union. On those grounds, Alaskans could excuse the behavior of the federals if they act with a colonial bravado, because we would accept partial-territory status. On the other hand, such a status could provide for more freedom in the state, greater access to lands and resources, and more sovereignty in our relationship to foreign nations, especially those who surround the state geographically.

SUMMARY

It seems to me that we are losing in the lower court (Congress) and an effort has to be made to make the Alaska case elsewhere. Only if the "best effort" is made to make the Alaska case, will resistance to the eventual law on federal lands be reduced. At the moment, that resistance appears

to be escalating at an alarming rate. It does appear that the Antiquities Act will hold, but a major bargaining point is in writing the regulations -- a process which could be affected by this "status" campaign. If a bill passes which looks anything like HR39, the Interior Department will have to write the regulations again, and the struggle continues.

By enlargening the question to an issue of status, Alaska can take its case, through news, to world opinion. There are a lot of people who will support Alaska -- all over the world -- if it appears that the people here are struggling to resist the manipulations of a foreign power. This can be done in a friendly way, and in fact the State could act tongue-in-cheek through the whole thing. But no question, the Alaskan public will respond in public opinion advisories, initiatives, even the tax protest, if they are organized. And this will make international news.

In 1980, that could become a Presidential campaign issue relating to the way the West votes. If Panama can be a campaign issue in 1976, Alaska can surely be such an issue in 1980. To some, it may not be

worth it to put up this kind of struggle against the d-2 bill, but as I see it, the struggle is going to happen anyway -- among the people -- so the question is, does the government want to help it along, retard it, or avoid the issue altogether. This is something that only time will tell.

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TESTIMONY ON HOUSE BILL 644
ALASKA STATEHOOD COMMISSION
prepared and submitted

by

GREGG ERICKSON

to

The Alaska State Legislature
House Judiciary Committee
The Hon. Charles H. Parr, Chairman

February 28, 1980

If there is one thing that Alaskans and Secretary Andrus agree on it is that relations between Alaska and the Federal government have never been as strained as they are today. Secretary Andrus describes it as a "state of seige", and most Alaskans would probably agree with that description. That relations between our two governments should be at this unprecedented nadir is remarkable, since one could certainly argue that Alaska is no stranger to ill conceived federal interference. The late Ernest Gruening's book, The State of Alaska, is more or less a catalog of these incursions during the pre-statehood era.

Looking back at 1958, when the U.S. Senate approved the Alaska Statehood Act, I can recall the sense of euphoria that pervaded the state. Although only seventeen at the time I, like many others, was swept up in the rejoicing that the long colonial era had finally come to an end.

Today, the remembrance of that excitement is like ashes in the mouth, for it has been replaced by widespread cynicism about whether we did in fact become an equal partner in the union of states. The reason for this cynicism is obvious: The federal government appears to have successfully and unilaterally revised the terms under which we thought much of Alaska's land and natural resource wealth was to come under the control of the people who live in this state, terms which formed a part of the Statehood Act, the compact between Alaska and the United States.

Because of the dominance of the lands issue in Alaska's consciousness, it's easy to loose sight of the many other areas where Alaska's ability to chart its own destiny has been similarly reduced by the federal government. For

example, the legislature has been trying for many years to find a method of using the state's resources to reduce its chronic unemployment problem. Each try has been largely frustrated by judicial interpretations of the Federal Constitution. As far as we know, no other state shares this particular problem. Nevertheless, it is fair to say that all the states, to one extent or another, have seen the handwriting on the wall, and are concerned with the erosion that is taking place in the powers that have been traditionally reserved to the states.

Alaskans can generally be divided into three groups based on their attitudes toward the increasing dominance of the federal government. First, there are a few people who really don't mind the federal incursions, perhaps because current federal attitudes on land issues coincide with their own view of how Alaska should develop. The second group are the majority of Alaskans who seem to think that it is probably hopeless to do anything more than conduct rear-guard actions against a trend that has the full weight and power of the federal government behind it. Third, at the other end of the spectrum are a small but increasing number who advocate the final solution--secession.

So far, at least, the secessionists really haven't been taken seriously, either inside Alaska or Outside. The basic reason for this is that though they may be serious about it, secession itself is not really a serious proposal. Alaska simply doesn't have the kind of cultural and economic cohesiveness necessary to make an independent nation a viable proposition. For better or worse, we are Americans.

Those of us who support formation of an Alaska Statehood Commission firmly

believe not only that the relative roles of Alaska and the federal government should be changed, but that the people of Alaska can put together a concrete plan for determining how that change should proceed and then actually work constructively to bring it about. Thus, what we propose is a two-fold process under which we will systematically examine what is best both for our state and nation, and under which we will lay the groundwork for bringing about that change.

Some people have criticized the notion of creating a commission on the Alaska statehood issue as simply another effort to paper over a problem by studying it to death. Well, the fact is the problem needs a lot of study and a lot of discussion among Alaskans before we can be sure that we have found solutions which are both practical and supported by the majority of Alaskans. Remember, we're not simply trying to get the feds off our lands, but rather to redefine the relationship between us and the federal government. That itself is a subject about which not much serious thought has been given.

The fact that careful study combined with public awareness and discussion can come up with innovative and viable solutions can be seen in what happened when America extended its fisheries jurisdiction to the 200 mile limit. We now have what amounts to a new kind of government over that area around Alaska, managed by the regional councils, and although the solutions are not perfect, most Alaskans seem to be generally satisfied with the results.

Although it is most important to get Alaskans thinking about these matters, it is unlikely that we will accomplish much of long-term value unless we can enlist the support of other states and other regions. Just as Nevada

has taken the lead in the narrower issue of state sovereignty over public lands, and been followed by other states -- including Alaska, we are confident that other states will follow Alaska if it initiates a fundamental re-thinking of its role in the federal union.

In fact, Alaska may not be the first jurisdiction under the American flag to have tackled these issues. The Commission on the Status of Puerto Rico has been looking at these same matters, albeit in the context of their own special circumstances and needs. The people of Guam recently rejected a referendum on the proposed constitution that had been largely dictated to them by the federal government. Our sister state of Hawaii has been seriously considering seeking ways that would allow them some say over the rate of immigration into their island state, and have been considering constitutional change as a fundamental means of achieving this.

Even if Alaska didn't have its special problems to contend with, it would still be appropriate for us to establish the Statehood Commission. The federal union is not the same today as it was 50 years ago or even 10 years ago, and regardless of what we do, it will continue to change in the future. As that change takes place it is imperative that we as a people understand the effects those changes will have on us and where our interests lie with respect to them.

For example, few of us realize that some time in the 1980's there is very likely to be a U.S. Constitutional Convention. Article V of the U.S. Constitution provides that "on the application of the legislatures of two thirds of the several states [the Congress] shall call a [constitutional] Convention...." So far, 34 of the required 37 state legislatures have adopted

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resolutions calling for such a convention. Most of these calls have specifically mentioned the issue of tax-limitation, but prevailing legal opinion holds that once a convention is assembled it can consider anything it chooses. Whatever one may think about the advisability of a U.S. Constitutional Convention, it seems likely that we will have one. As such, it is only prudent for us to begin thinking about where our interests lie in respect to that convocation. The Alaska Statehood Commission provides an ideal forum for initiating the necessary dialog among Alaskans, a forum in which they will have a chance to focus on the role of Alaska in the nation's future.

The creation of the Alaska Statehood Commission by the legislature will also have immediate and highly beneficial effects in our current problems with Congress. Most of the people who sit in Congress simply don't understand the depth of feeling in Alaska concerning what has been done to us lately. By adopting the Statehood Bill the legislature can help the Congress of the United States understand that the common heritage which binds this nation together is not a fabric that can be stretched indefinitely, that continued federal encroachment runs a real risk of tearing that fabric. The Commission will no doubt generate substantial national publicity. Congressmen hearing of it will realize that it is not rebellion that could bring about tears in that fabric, but the peaceful, rational and democratic response of peoples who increasingly feel that their government is no longer interested in their special needs and cultures. In short, the creation of the Alaska Statehood Commission will send Congress a clear and unmistakable message of the sort they have never heard before, a message which cannot help but influence their actions on issues of importance of Alaskans.

There are plenty of historical precedents to indicate that this will be the case. Every region within a federal democracy that has agitated for greater self government has ended up better off as a consequences of that agitation. On our own continent, Quebec has gained important concessions from the Canadian federal government, not only in language and educational rights, but in economic areas as well. The Basque provinces of Spain last year won a high degree of self government from the Spanish central government, and now have their own parliament and flag while still remaining an intergrated part of the Spanish nation. The list of others is fairly long: Greenland has just this year won self government in all areas except foreign policy and defense, and has gained greater economic support from the Danish government, as have the Faroe Islands in the North Atlantic.

Within the United Kingdom, Scotland has finally started to profit from the discovery of oil resources off its shores due to the peaceful and democratic agitation of the Scottish "Separatist" Party. The example here may be particularly significant for Alaska, since the "Separatist" Party has really never advocated separation from the United Kingdom nor has it ever resorted to non-democratic means to obtain its goal. There is every reason to expect that passage of the statehood legislation will bring about a similar response by the federal government.

Finally, the very best reason for supporting the statehood legislation is that it will be good for the nation as a whole. For better or worse, we are Americans. As Americans we Alaskans have a responsibility to work not just for ourselves but for all our fellow citizens. One of the most important things in making America a strong and tolerant nation has been our willingness and ability to accept diversity and to gain strength from that diversity. If the states are to be extinguished as a vital and viable source

of implimenting that diversity then our nation will have suffered a grievous loss.

Perhaps Alaska has an historic chance to initiate the process whereby the federal government is, in effect, saved from itself. If you will take a dime or a penny out of your pocket you will note that it has emblazoned thereon the nation's motto: "E Pluribus Unum". "One out of many". The Alaska Statehood Commission will be a concrete step to insure that the Many do not disappear into the faceless One, and that this basic principal remains a part of our nation's heritage.